



UNIVERSITY *of* NORTH CAROLINA  
ASHEVILLE

## **Purchasing Manual**

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## Contents

<b>Introduction</b>	<b>1</b>
<b>General Information</b>	<b>2</b>
<b>Section 1 – Procurement</b>	<b>4</b>
1.1 <i>Delegations</i>	4
1.1.1    Delegations/ Purchasing Thresholds	4
1.1.2    General Delegations/Benchmarks	5
1.1.3    State Special Delegations	6
1.1.4    Statewide Special Delegations for Information Technology (IT) Purchases	7
1.1.5    Documentation for Special Delegation	7
1.1.6    Increasing/Reducing the General Delegation	8
1.2 <i>Considerations in Determining Appropriate Procurement Method</i>	8
1.2.1    Procurement Expenditure	8
1.2.2    Identify the Need (Goods and Services)	9
1.2.3    Contract Term	13
1.3 <i>Procurement Methods</i>	13
1.3.1    Small Purchases	13
1.3.2    Procurement Card (See Procurement Card Manual)	13
1.3.3    Telephone, Facsimile, E-Quotes, and Written Quotes:	14
1.3.4    Open Market Solicitations:	14
1.3.5    Statewide Term Contract (Goods or Services):	15
1.3.6    Mandatory versus Convenience	15
1.3.7    Abnormal Quantity	16
1.3.8    Agency Specific Term Contract	16
1.3.9    Waiver of Competition	16
1.3.10    Emergency	19
1.3.11    Pressing Need	19
1.3.12    Exemptions	20
1.3.13    Conditional Grants	22
1.3.14    Federal Grants	22
1.3.15    Across the Counter Purchases	23
1.3.16    Preferences	23
1.3.17    Use of Purchasing Power for Private Gain	24
1.3.18    Auctions	24
<b>Section 2 – General Procurement Planning and Guidelines</b>	<b>25</b>
2.1 <i>Preparing the Written Solicitation</i>	25
2.1.1    Requisition Process	26
2.1.2    Control Numbers	26
2.1.3    Types of Contracts	26
2.2 <i>Specifications</i>	28
2.3 <i>Commodity Codes</i>	29
2.4 <i>Qualified Product List (QPL)</i>	30

2.5	<i>Payment Terms</i>	30
2.6	<i>Award Criteria</i>	30
2.7	<i>Transportation/Freight</i>	32
2.8	<i>Samples</i>	33
2.9	<i>Vendor Presentations/Product Demonstration</i>	33
2.10	<i>Spend Analysis (if applicable)</i>	34
<b>Section 3 – Procurement of Goods and Services</b>		<b>34</b>
3.1	<i>Scope of Work and Specifications</i>	34
3.2	<i>Gathering Information from Vendors prior to Preparing a Solicitation Document</i>	35
3.3	<i>Determining the Solicitation Method</i>	35
3.4	<i>Solicitation Requirements</i>	36
3.4.1	Solicitations \$5,000 and under	36
3.4.2	Solicitations over \$5,000 and up to \$50,000	36
3.4.3	E-mail, Faxes, Telephone bids	37
3.5	<i>Statewide Information Technology Procurements (SITP) over \$100,000</i>	38
3.6	<i>Public Opening for Solicitations</i>	39
3.6.1	P&C Bid/Procurement Opening	39
3.6.2	SITP Bid/Proposal Opening	39
<b>Section 4 – Competitive Sealed Bidding</b>		<b>40</b>
4.1	<i>Preparation of Solicitation Document</i>	40
	<i>NOTE: Legal Review, Over \$1,000,000</i>	40
4.2	<i>Advertising Solicitation</i>	40
4.3	<i>Solicitation Addenda</i>	41
4.4	<i>Bid Opening</i>	41
4.4.1	Signed Bid	41
4.4.2	Responsive Bidder	41
4.4.3	Financial Evaluations Responsive Bidder	41
4.4.4	HUB Status	41
4.4.5	References (if applicable)	41
4.4.6	Insurance Coverage (if applicable)	42
4.4.7	Recall Offers	42
4.5	<i>Conducting a Bid Opening</i>	42
4.5.1	Late Offers, Modifications, or Withdrawals	42
4.5.2	Witness	43
4.5.3	Recording Results of Bid Opening	43
4.5.4	E-mail, Faxes, Telephone bids	43
4.5.5	Bid Tabulation	43
4.5.6	Legal Review, Over \$1,000,000	44

<b>Section 5 – Evaluations</b>	<b>44</b>
5.1 <i>Basis for Rejection of Offers and Negotiation</i>	44
5.2 <i>Debarment Vendor List</i>	45
5.3 <i>Evaluations P&amp;C</i>	46
5.4 <i>Criteria for Evaluation and Award</i>	46
5.5 <i>Competitive Negotiation</i>	48
5.6 <i>Negotiation Tips/Guidelines</i>	49
5.7 <i>Negotiating with Prospective Vendors</i>	50
5.8 <i>Best Value Procurements</i>	50
5.9 <i>Scoring Example - Numerical Rankings</i>	52
5.10 <i>Award Recommendation</i>	52
5.11 <i>Procedure for Two-Step Competitive Sealed Bidding</i>	53
5.12 <i>Posting Bid Tabulations</i>	54
5.13 <i>Tie Bids</i>	54
5.14 <i>Partial and Multiple Awards</i>	54
5.15 <i>Board of Award</i>	55
A.    P&C	55
B.    SITP (Statewide Information Technology	55
5.16 <i>Notification of Award</i>	56
5.17 <i>Posting Award</i>	56
5.18 <i>Cancelation</i>	56
<b>Section 6 – Post Award</b>	<b>56</b>
6.1 <i>Notices to Vendor</i>	56
6.2 <i>Confidential Information</i>	56
6.3 <i>Requisition Approval (If Required)</i>	57
6.4 <i>Receiving</i>	57
6.5 <i>Inspection and Testing</i>	58
6.6 <i>Damaged Goods</i>	59
6.7 <i>Inaccurate Orders</i>	59
6.8 <i>Inaccurate Quantities</i>	59
6.9 <i>Late Shipment</i>	59
6.10 <i>File Closeout Checklist</i>	60
<b>Section 7 – Procedures and Records</b>	<b>61</b>
7.1 <i>Procurement File Maintenance</i>	61

7.2	<i>Public Records</i>	62
7.3	<i>Public Records Requests</i>	63
7.4	<i>Redacted Information</i>	64
7.5	<i>Record Retention</i>	64
<b>Section 8 – Protests and Vendor Disputes</b>		<b>65</b>
8.1	<i>Protest Procedures (P&amp;C)</i>	65
8.2	<i>Protest Procedures (SITP)</i>	67
	Agency Protest Procedures	67
	Protest Procedures for SITP-Issued Contracts	68
8.3	<i>Vendor Complaint Process</i>	68
<b>Section 9 – Miscellaneous</b>		<b>69</b>
9.1	<i>E-Procurement Training Information</i>	69
9.2	<i>Electronic Signatures</i>	69
<b>Section 10 Procurement Authority and Responsibility</b>		<b>70</b>
10.1	<i>North Carolina Administrative Code, North Carolina General Statutes and Executive Orders Affecting Procurement</i>	70
10.2	<i>North Carolina General Statute Chapter 143-48 Article 3</i>	70
	Article 3. Purchases and Contracts	70
10.2	<i>Procurement Procedures</i>	72
10.3	<i>General Powers and Duties</i>	72
10.4	<i>Functions of the Statewide Information Technology Procurement</i>	72
10.5	<i>Procurement of Information Technology</i>	73
<b>Section 11 Community College Exceptions</b>		<b>75</b>
<b>Section 11 Historically Underutilized Business (HUB)</b>		<b>75</b>
11.1	<i>Programs/Core Services</i>	75
<b>Section 12 N.C. Administrative Code Title 1 Chapter 5 Purchase &amp; Contract</b>		<b>76</b>
<b>Section 13 Administrative Code Title 9 Chapter 6 (SITP)</b>		<b>76</b>
<b>Section 14 Executive Order 24</b>		<b>77</b>
14.1	<i>Gifts and favors regulated</i>	77
<b>Section 15 Executive Order 50</b>		<b>78</b>
<b>Section 16 Executive Order 60</b>		<b>79</b>

<b>Section 17 Umstead Act</b>	<b>79</b>
<b>Section 18 Department of Public Safety (Correction Enterprises) GS 148-134</b>	<b>80</b>
18.1 <i>Quality &amp; Price Policy</i>	80
<b>Section 19 Ethics/Integrity/Responsibility</b>	<b>80</b>
19.1 <i>Ethics</i>	80
19.2 <i>Integrity</i>	81
19.3 <i>Liability</i>	81
<b>Section 20 General Procurement Policies (Rules)</b>	<b>81</b>
20.1 <i>Cooperative Procurement/Consortiums</i>	81
20.3 <i>Multiple Awards</i>	82
20.4 <i>Taxes</i>	<b><i>Error! Bookmark not defined.</i></b>
20.5 <i>Terms and Conditions</i>	82
<b>Section 21 Glossary</b>	<b>83</b>
<b>Acronyms:</b>	<b>83</b>
<b>DEFINITIONS:</b>	<b>84</b>

## Introduction

An important core function of any university is to wisely spend the revenue it receives from its taxpaying citizens and other sources. In North Carolina, the central authority over purchasing goods and services is vested in the Department of Administration and by delegation to its Division of Purchasing and Contract (P&C) through the State Purchasing Officer (SPO). Universities work with the UNC System in conjunction with P&C, and the Department of Administration to ensure that everyone performing the procurement function across the university has primary responsibility for the prudent use of public funds.

The purchasing activities of the university are charged with acquiring suitable goods and services at the lowest possible cost. University procurement must also take into account the principles of “open competition” and “transparency.”

The principle of open competition means that the university’s procurement activities generally are conducted openly using established methods that give everyone an equal opportunity to compete for the university’s business. The University solicits its requirements publically and evaluates vendor responses in an evenhanded manner based on criteria disclosed beforehand.

This manual is intended to describe the laws, rules (NC Administrative Code), policies and procedures that must be followed in carrying out procurement responsibilities. One way of thinking about the purpose behind these procedures is that all are intended to support the “Five Rights of Purchasing:”

- Obtain the RIGHT goods or services,
- At the RIGHT time,
- For the RIGHT price,
- In the RIGHT quantity,
- And deliver to the RIGHT place.

North Carolina General Statutes, Article 3 and 3C of Chapter 143 (for goods and services handled through P&C) and Article 3D of Chapter 147 (for Statewide IT Procurement (SITP) goods and services through SITP) and the NC Administrative Code Title 1, Charter 5 (for P&C) and Title 9, Chapter 6 (for SITP procurement) provide the formal statements for purchasing activities within the State of North Carolina.

In addition to the above laws, the university must also follow procedures and policies as outlined by UNC General Administration. The UNC Asheville Purchasing Policy and Purchasing Manual takes all of these into consideration in outlining the University’s purchasing procedures in this document. As we cannot begin to outline every possible purchasing scenario, this manual is intended to provide a basic framework. Please contact the UNC Asheville Purchasing Office to discuss your specific purchasing transaction.

## General Information

Purchasing goods and services for the University of North Carolina at Asheville (UNC Asheville) can fall under local, state, and federal guidelines. The intent of this manual is to serve as a guideline for procurement by all UNC Asheville faculty and staff when purchasing goods and services from state, trust, and grant funds.

UNC Asheville's Purchasing Policy can be found at <https://administration.unca.edu/policies/4120>.

**Sustainability:** UNC Asheville encourages and supports, where feasible, the purchasing of environmentally friendly products which considers but is not limited to the following characteristics: recyclable, recycled content, minimal packaging, sustainably harvested forest products, non-toxic, biodegradable, compostable, energy conservation, etc.

**Access:** UNC Asheville provides equal opportunity to its educational services, programs and activities in accordance with federal and state laws. Therefore, these procedures extends to providing effective access to official UNC Asheville information and communication technology (ICT) resources. Accordingly when purchasing ICT resources, UNC Asheville will seek to procure such resources that will be accessible to persons with disabilities, where feasible.

**Authority:** The Purchasing Department is the only campus office authorized to obligate the University to pay for goods and services through the issuance of purchase orders, with the exception of the Library's purchases of books and Design and Construction projects.

**Responsibility:** University employees must take seriously the University's obligation, as a state agency, for achieving economical and effective procurement of goods and services consistent with applicable State statutes and related rules, regulations, and procedures. Failure to abide by these rules, regulations and procedures can result in disciplinary action, and in some cases, personal liability of the employees, and possibly of their supervisors, for the cost of the unauthorized contract. See, for example, N.C. General Statute §143-58, on making "executive officer" of department, etc. personally liable for costs of unauthorized contracts.

**Electronic E-procurement System (SciQuest) - Bulldog Buyway (BDBW)** is a web-based requisition entry/approval system. Purchase requisitions from each department are entered into BDBW via supplier catalogs or direct entry. Users can monitor their purchase requisition and purchase order status using search features within BDBW. It is recommended that all purchase requisitions be entered into BDBW with the exception of Design and Construction requisitions. To schedule training and access to BDBW, contact the Director of Business Services.

**Requisitions:** Purchases originate departmentally with a purchase requisition. Departments enter purchase requisitions into Bulldog Buyway as required in this policy. It is also highly recommended that Bulldog Buyway be used as much as possible when procuring items not covered specifically by this policy (i.e. purchases under \$1000.)



**Departmental Approvals:** The fund manager must approve all requisitions. This approval indicates the item requested is a necessary departmental expense, and budgeted funds are sufficient to cover the cost of the purchase.

A fund manager may delegate authority to approve requisitions and invoices for payments. An Authorization to Sign Form must be completed and submitted to the Finance Department. Forms can be accessed through the Administration and Finance Office website. Authority delegation does not relieve the fund manager of responsibility for managing the fund allotted budget. Fund managers may assign a substitute for their approval of requisitions during time away from the office by using the Manage Substitutions tab in Bulldog Buyway.

**Purchasing Department Review:** Purchasing Department personnel review requisitions for compliance with state purchasing regulations and procedures and will verify requisitions for accuracy.

**Purchase Orders:** Purchase orders (POs) completed in Bulldog Buyway are automatically electronically transmitted (faxed or emailed) to the vendor by the system immediately upon the last approval. Departments can review copies of purchase orders within Bulldog Buyway.

The Purchasing Department retains files of procurement documents as outlined in the University of North Carolina's General Records Retention and Disposition Schedule. Also any documentation added to the purchase requisition in Bulldog Buyway will be maintained electronically within Bulldog Buyway.

**Quantity Receipts for Purchase Orders:** When the order has been received, open the purchase order in Bulldog Buyway by clicking on the PO number and create a Quantity Receipt.

**Paying an Invoice for a Purchase Order:** When the invoice is received and accepted by the department, have the fund manager sign and date the invoice and send the invoice to Accounts Payable for processing the payment. Please ensure that the PO number is on the invoice. DO NOT create a paper check request form or an electronic check request to process a payment for a Purchase Order.

The University has its own e-procurement system and has been exempted from mandatory use of the state's e-procurement system for entering requisitions. However, the University can still use this system to search many state term contracts.

Within this document, reference to the State or state agency (agencies) can also mean UNC Asheville.

## Section 1 – Procurement

### 1.1 Delegations

When the dollar amount of the expenditure is under UNC Asheville’s General Delegation (\$50,000) the university is authorized to acquire commodities, printing and contractual services, by purchase, rent, lease, lease purchase, or installment purchase, subject to the following rules:

- All commodities and contractual services covered by a State Term Contract must be purchased in accordance with the instructions of those contracts. In situations where a special type item or contractual service is needed for a particular application, the UNC Asheville Purchasing Office will consult with the State Purchasing Administrator who handled the term contract for appropriate action.
- This Purchasing Manual serves as the written procedures for UNC Asheville for making small purchases as required by the State Purchasing Officer (SPO.) For the definition of a small purchase, see section 1.3 Procurement Methods.
- The University has been given special legislative authority under General Statute 116-13 granting flexibility to obtain commodities and services outside of the State Term Contract when the same item can be found at a better price. However, documentation of the State Term Contract pricing must be included with the documentation for the purchase at the better price.

#### 1.1.1 Delegations/ Purchasing Thresholds

The maximum authorized dollar limits (delegation/ benchmark) for purchases of commodities, printing, and services for the University are as follows:

- A. Purchases of items on a **State Term Contract** should typically be ordered using a purchase requisition created in Bulldog Buyway. The State Term Contract number should be listed on the requisition and included on any quotes provided by the State Term Contract vendor.

If the contract contains a **minimum** dollar amount or quantity and your order does not meet the minimum requirements, you may place your order with another vendor or contact the State Term Contract vendor to get a price.

If the contract contains a **maximum** dollar amount or quantity and your order exceeds the maximum requirements, contact the Purchasing Office to assist you with the procurement.

- B. Purchases not on a state contract under **\$1,000** do not require a requisition or purchase order. However, the University encourages the use of Bulldog Buyway to create purchase requisitions/purchase orders for items purchased under this

\$1,000 threshold. The purchase order is faxed or emailed to the vendor and serves as your order while providing the vendor the authority to fulfil the order. To pay an invoice when a purchase order has been created, have the fund manager sign and date the itemized invoice after the items have been received. Ensure the PO number is on the invoice. Send the invoice to Accounts Payable for processing payment. Do not complete a check request form for a payment on a purchase order.

If the department chooses not to enter a purchase requisition in Bulldog Buyway for these purchases, they may contact the vendor directly to place the order. Once the order has been received, Departments should complete a Check Request Form, obtain approval signatures, attach the original itemized invoice and receiving documentation, and submit to Accounts Payable for payment. The Check Request Form can be accessed through the Forms section of the Finance Office website.

- C. Purchases not on a state contract from **\$1,001 to \$3,000** require a purchase requisition entered into Bulldog Buyway. The department should ascertain the best quality, price, and source for the purchase. Quotes are encouraged but not required.
- D. Purchases not on a state contract from **\$3,001 to \$5,000** require at least three quotes to ensure the lowest price possible has been obtained. Departments should contact potential vendors to obtain written, faxed, telephone or current catalog quotes. Copies of all quotes should be attached to the purchase requisition in Bulldog Buyway. Competition may be waived in certain circumstances. See 1.3.9 Waiver of Competition below.
- E. Purchases not on a state contract between **\$5,001 and \$50,000** require a formal bid process. Contact the Purchasing Office as early in the planning and development for such purchases to ensure all regulations and procedures are followed.
- F. The UNC Asheville Purchasing Office will coordinate all transactions greater than the general delegation of **(\$50,000)** with the State Purchasing Office.

### **1.1.2 General Delegations/Benchmarks**

Although the purchasing benchmarks for UNC Asheville are set by the University Board of Governors, the rules applying to purchases made under those benchmarks are governed by North Carolina State law and the North Carolina Administrative Code.

There are normally two types of delegations - general and special. The differences between these and the conditions under which they are delegated are explained herein.

While the Purchasing Office at UNC Asheville has been delegated the responsibility for the purchasing function of the university, all faculty and staff should work with the Purchasing Office to ensure consistency and accountability for all expenditures.

The University shall not divide requirements into more than one procurement event in order to keep the separate purchases under the general delegation, and thereby avoid the rules requiring the applicable method for competition.

- A. Users must be sure they do not exceed the university's delegation in handling any type of purchase. This includes monthly and quarterly (scheduled buying) purchases and agency specific term contracts, which may be established for items acquired by an agency on a repetitive basis. The contract value of the original contract period or the renewal option period(s), individually, must be within the university's delegation.
- B. The solicitation document shall include the North Carolina General Terms and Conditions and approval from the SPO to modify the language is granted. Solicitation templates for Invitation for Bids (IFB), Request for Quotes (RFQ), and Request for Proposals (RFP) are available from the State Purchasing Office and must be used.
- C. The University monitors purchases under their general delegation to guard against abuse of the system and to ensure that the dollar value received is commensurate with the dollar amount expended.
- D. Awarding of contracts under the general delegation shall be the responsibility of the University.

### **1.1.3 State Special Delegations**

These delegations apply to all users; however, competition shall be sought where available.

- A. Repairs (Non-Construction): Purchasing authority for minor repairs handled by departments, regardless of cost, is delegated to the university. Where materials are being purchased for a repair and university personnel will perform the needed repair, the purchase of the materials must be handled in accordance with normal purchasing procedures outlined in this manual.

NOTE: Where any structural changes are to be made in or to a university-owned building, the proposed project should be handled in accordance with construction statutes and rules applicable (See G.S. 143-129 concerning building repairs and renovation.) Typically, those contracts will be handled through the Design and Construction Office at UNC Asheville.

- B. Athletic Apparel: Authority to purchase athletic apparel is delegated to the University. In the purchase of athletic apparel, there are certain considerations regarding the safety of the athlete which should remain within the control of the University.
- C. Ready-Mix Concrete: Where the purchase of ready-mix concrete is being handled as a commodity purchase rather than a construction project, the authority to purchase such ready-mix concrete is delegated to the University.

#### **1.1.4 Statewide Special Delegations for Information Technology (IT) Purchases**

The State Chief Information Officer (SCIO) or his designee may authorize, by special delegation, the University to purchase specific IT goods or services even if the expenditure exceeds the benchmark. Such delegation is normally confined, but not limited, to goods or services which by their nature or circumstance, transportation costs, market volatility, local conditions or local availability would result in handling by the Office of Statewide Information Technology Procurement (SITP), serving no practical purpose. Every such delegation shall be in writing and made a matter of record.

The State Chief Information Officer or his designee may require that offers received under such delegations are sent to SITP for determination of the successful vendor.

The SCIO shall periodically review its special delegations to ascertain the availability of these goods or services and their continued suitability for delegation.

#### **1.1.5 Documentation for Special Delegation**

By special delegation, the State Purchasing Officer may authorize the University to purchase specific commodities, printing, or contractual services without limitation as to the expenditure. Such delegation is normally confined, but not limited, to items and quantities, or services which by their nature or circumstance, such as perishability, transportation costs, local conditions or local availability, would serve no practical purpose to be handled by Purchase and Contract.

Some special delegations apply to all universities and some are university specific. All delegations shall be in writing and retained as a matter of record. Unless otherwise specified by the SPO, special delegations are subject to all of the following conditions:

- A. All commodities and contractual services covered by term contracts must be purchased in accordance with the instructions of each term contract.
- B. Competition must be solicited, where available. If competition is not available, the reason(s) must be documented in the procurement file.
- C. The University is required to issue their own solicitation documents. This shall also apply to a waiver (See Waiver of Competition).

- D. The solicitation document shall include North Carolina General Terms and Conditions and any other consistent contract language issued by the SPO, unless prior approval from the SPO is granted to substitute modified language.
- E. All transactions shall be documented.
- F. Awarding of contracts under a special delegation shall be the responsibility of the Executive Officer of the University. However, the SPO may require that offers received under such delegations be sent to P&C for determination of the successful contractor.
- G. Any controversial matter arising from a special delegation must be brought to the attention of the University and the SPO. All protests on awards greater than \$25,000 must be handled by the SPO.
- H. Specific delegations may be subject to additional conditions as determined by the SPO. These conditions shall be submitted to the University in writing.
- I. Purchase and Contract shall periodically review all approved special delegations to ascertain the availability of these items or services and their continued suitability for delegation.

#### **1.1.6 Increasing/Reducing the General Delegation**

The UNC Board of Governors reviews requests for changing university purchasing delegations. Before any changes can be made to a university's general delegation, a current compliance review by P&C is required. The North Carolina Administrative Code Title 1, Chapter 5, Section .1605 gives the Division of Purchase and Contract the authority to conduct compliance reviews on purchasing practices at all agencies. The purpose of the compliance review shall be to determine if the agency is complying with North Carolina's purchasing laws and regulations and if the agency should continue having the same delegation amount, have it reduced, or have it increased.

The Division of Purchase and Contract shall be responsible for compliance reviews on purchasing practices at UNC Asheville. The purpose of the compliance review shall be for determining if the University is complying with purchasing statutes and rules, and whether it should continue having the same level of delegation, have it reduced, or if it qualifies for an increase. The UNC Board of Governors must also recommend or approve any changes.

### **1.2 Considerations in Determining Appropriate Procurement Method**

#### **1.2.1 Procurement Expenditure**

When the dollar amount of the expenditure is under the University's delegation, the University is authorized to acquire commodities, printing and contractual services, by purchase, rent, lease, lease purchase, or installment purchase (as described below), subject to the procedures herein. When the dollar amount of the expenditure exceeds the university's delegation, the request shall be submitted by the UNC Asheville Purchasing Office to P&C or Statewide IT Procurement.

## **1.2.2 Identify the Need (Goods and Services)**

### **1.2.2a Goods**

- A. Any commodities (except IT-related) including equipment, materials, or supplies requested for purchase.
- B. Statewide IT Procurement – Any information technology commodities including equipment, materials or supplies requested for purchase.
- C. Used Equipment/Auctions-If it appears that the acquisition of used equipment, materials or supplies is in the public interest, competitive procedures shall be followed wherever feasible. When a used item is available on short notice or is needed for the disabled, a waiver of competition or emergency action may be justified. The solicitation document may or may not include a request for prices on like new products, but in either case acquisition may be made on the basis of whichever is considered most advantageous for the intended purpose. Confirmation should be made that the price of the used equipment is reasonable with respect to its age, and condition. The price of like new equipment should be included in the permanent file.

### **1.2.2b Consulting Services**

Consulting Services is defined in A. below. Whenever possible, consulting services shall be obtained from other State agencies when the services available from other agencies substantially meet the reasonable specifications of the requesting University.

Below is the UNC Board of Governors' policy adopted for consultant services:

#### **Contracts to Obtain the Services of a Consultant**

Pursuant to N.C.G.S. §143-64.24(8), the Board of Governors adopts the following policies and procedures governing contracts to obtain the services of a consultant by the constituent institutions and other units of the University of North Carolina.

- A. "Consulting services" shall mean work or task(s) performed by governmental entities or independent contractors possessing specialized knowledge, experience, expertise, and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulating or implementing improvements in programs or services. This includes but is not limited to the organization, planning, directing, control, evaluation, and operation of a program, agency, or department.
  - 1) The Chancellors, or the Chancellors' designees, are authorized to approve contracts for consulting services to a constituent institution when the services are determined to be in the best interest of the University, and the amount is not above the constituent institution's management flexibility purchasing benchmark.

- 2) The University of North Carolina Vice President for Finance is authorized to approve contracts for consulting services above the constituent institution's management flexibility purchasing benchmark.
- 3) Contracts for consulting services for a constituent institution shall be:
- 4) Consistent with all applicable policies and procedures adopted by the constituent institution for the procurement of services, including policies and procedures for personal and professional services, competitive bidding, and sole-source justifications.
- 5) Reported to the constituent institution's Board of Trustees at least annually.
- 6) Reported to the University of North Carolina Vice President for Finance at least annually.

Contracts for consulting services for other units of The University of North Carolina shall be:

- B. Approved by the Chancellor or the Chancellor's designee consistent with all applicable policies for the procurement of services including policies and procedures for personal and professional services, competitive bidding, and sole-source justifications.
- C. Reported to the University of North Carolina Vice President for Finance at least annually.
- D. Contracts for the use of individuals for instructional services, curriculum development, and conducting academically oriented research, formerly covered under Board of Governors Policy Guideline §600.5.4[G], remain exempt from the State Consulting Act, and are exempt from the reporting requirements of Sections IV and V of this Policy, but must comply with all applicable policies and procedures adopted by the constituent institution or other unit of the University of North Carolina for the procurement of academic research consultant services.

Consulting services under the university's delegation (\$50,000) must have the Chancellor's or the Chancellor's designee's written approval. Any consulting services over the university's delegation must have the written approval from the University of North Carolina Vice President for Finance as outlined in Chapter 6-00.5.4 of the UNC Policy Manual as outlined above.

UNC Asheville Procedures for requesting consultant services:

Before obtaining consultant services, a department should submit written justification to the Purchasing Office for its request for consultant services. This written justification shall at a minimum explain:

- 1) What services the department desires to secure;
- 2) Why the work to be performed by the consultant cannot be reasonably accomplished by employees of the requesting department;
- 3) How the work to be performed relates to the proper functions of the university;
- 4) What benefits the department expects to receive from the consultant's services;



- 5) What the department estimates to be the cost of the services sought; and
- 6) What potential sources of consultant services, if any, the department has identified.

If the department is requesting authority to contract for consulting services outside of the university, it should also detail what potential sources of those services exist within the university and explain why the desired services are not available from those sources. The written justification should be accompanied by a letter of endorsement for the proposed contract(s) from the department head or designee if applicable. Purchasing will obtain approval for the procurement of consultation services from either the Chancellor or the Vice President for Finance at UNC General Administration based upon the total expenditure.

Upon completion of securing the appropriate approval, the requesting department will be advised to:

- 1) Canvass additional sources within the university; or
- 2) Solicit proposals from private contractors; or
- 3) Execute a negotiated contract(s) without competitive proposals if Purchasing Department and the University have determined that performance or price competition is not available, or that the service is required for an authorized cooperative project conducted with another governmental unit(s), or a public or private nonprofit organization(s), or that the contract price is too small to justify soliciting competitive proposals; or
- 4) Abandon the project for being outside the scope of the department's responsibilities or for having insufficient benefit to the State relative to the potential expenditure of funds.

**Note:** A consultant cannot begin any work until all reviews are completed, approvals obtained, and a purchase order issued.

If consultant services require competitive proposals, the department should work with the Purchasing Office in preparation of a Request for Proposal using the template provided by P&C.

### **1.2.2c Service Contracts**

Service Contracts are those awarded for the procurement of accomplishing some task or activity. Sometimes a product is incidental to a service contract, such as a new part or a report, but the main purpose is performance of the repair work or the program evaluation. Any modification to an approved contract shall be subject to the same approval requirements as the original contract.

- A. Contractual Service: When an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for the University for

compensation from departmental funds. The services may include (by way of illustration, not limitation) services such as, maintenance of buildings or equipment, auditing, film production, employee training and food service, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to Consultant Contracts shall be applicable) .

- B. IT Services: Defined as any process of providing services requiring specialized knowledge, experience, expertise, professional qualifications, or similar capabilities for any aspect of information technology including, but not limited to, work or task performance, review, analysis, and advice in formulating or implementing improvements in programs or services.
- C. IT Technical Service Contracts: See instructions in the Technical Services Contract Procedure Manual for Agencies in preparing a scope statement in place of a solicitation document. A copy of the manual is posted on the Statewide IT Procurement webpage at [www.its.state.nc.us](http://www.its.state.nc.us).
- D. Construction Contracts: The University shall review the items being included in a construction/renovation project and remove from the scope of the construction procurement any items that they consider are non-related to the actual construction/renovation of the building. Items that are considered commodities, or just furnishings, to complete the project for use by the University, shall be handled by Purchasing in accordance with the normal purchasing rules. Items that are usually removed from construction/renovation projects include carpet, office panel systems, food service equipment, and furniture. If the university determines that one of these items, or any item that is normally handled as a commodity purchase, is best suited for inclusion in the construction/renovation project, their justification shall be documented in writing for public record.
- E. Rental Contract: A contract for the right to use a commodity or product for a period of time, usually with payments made at intervals over the period of use, and normally providing short notice of cancelation. Contracts for the rental or lease of commodities shall be handled under the same rules applying to the outright purchase of commodities. As defined, a "rental" or "lease" shall not include an option or obligation to purchase the item in the rental or lease agreement, which is a lease-purchase.
- F. Lease Purchase Contract: Term used when the decision for outright ownership is uncertain or when it is the intent to delay ownership. Contracts of this type must provide for an option or obligation to purchase before or at the end of the contract term. Third party financing is not used. Ownership transfers only if and when the option to purchase is exercised, or when the time for the obligation to purchase is reached. The contract may include an option to upgrade the item during the lease period, which may be exercised without rebidding the contract. The same Rules applying to outright purchases shall be applied for lease-purchase contracts.

G. **Installment Purchase Contract:** Term used only when ownership of a commodity at time of possession is intended. Third party financing is used in most cases. It creates a security interest in the property purchased in order to secure payment of the purchase price to the seller or to an individual or entity advancing money or supplying financing for the purchase transaction. If the commodity is on a term contract and third party financing is being utilized, then the commodity is to be purchased from that contract. If the commodity is on a term contract, but third party financing is not being utilized, then the commodity would not be considered on the contract since some form of financing would be necessary; the purchase of the commodity would be handled by the University under their delegation or by Purchase and Contract if over their delegation. When third party financing is involved and the commodity is not on a term contract, the contract for the commodity is handled first and must include a provision that award of contract is contingent upon obtaining satisfactory financing. The University shall handle the financing part of the procurement in the same manner as a contractual service contract is handled under the rules in this manual. The financing contract should also include an option for early payment without penalty.

### **1.2.3 Contract Term**

The University has the authority to solicit bids for service contracts with a term of 10 years or less including extension and renewals without the prior approval of the SPO as outlined in NC General Statutes §143-53, Paragraph D.

## **1.3 Procurement Methods**

Once a need is determined by a department at the University, the department will submit a requisition through the University's e-procurement system (Bulldog Buyway.) The method used to acquire the commodity, printing, or contractual service needed will usually fall under one of the categories given below. (For consultant services, see 1.2.2b Consultant Services.)

### **1.3.1 Small Purchases**

A small purchase is defined as the purchase of commodities, services or printing, not covered by a term contract, involving an expenditure of public funds of five thousand dollars (\$5,000) or less. The University shall set forth purchasing procedures for making small purchases. The benchmark for small purchases may be set at less than \$5,000 at the discretion of the University, but small purchases may not exceed \$5,000. The SPO or SCIO may require a copy of the small purchase procedures be sent to the Division of Purchase and Contract or SITP. The use of competitive quotes or bids is preferred, whenever practical.

### **1.3.2 Procurement Card (See Procurement Card Manual)**

A. Procurement cards (organizational charge cards also referred to as p-cards) are for official use only and shall be used in accordance with the statewide contract established and maintained by the Division of Purchase & Contract. Use of procurement cards by any university is contingent upon satisfactory compliance review, as determined by the

Division of Purchase and Contract. Procurement cards may be used as a payment mechanism within the University's electronic procurement system (Bulldog Buyway), if permitted by fiscal policies of the University. Most p-card transactions are tax-exempt.

- B. For procurement card transactions the per-transaction limit shall be two thousand five hundred dollars (\$2,500.00). This limit may be changed only under the following circumstances:
- i. In an emergency as defined by .1602 or Governor's declaration, the university procurement card program administrator may request higher limits on cards in critical situations. Such increases shall be in effect no longer than the duration of the emergency. Requests for increased limits are to be made through the Division of Purchase & Contract if time permits and must be reported to Purchase & Contract in any case.
  - ii. Universities may apply to the SPO for higher limits on specific transactions or types of transactions, with prior justification.
  - iii. The SPO may adjust limits based on analysis of the procurement card program's results, on a statewide or agency basis, after taking into consideration current market trends, the economy, and recommendations received from the State Controller and the State Auditor.
- C. Each university shall designate a procurement card program administrator, who shall be the chief purchasing officer or chief fiscal officer (or person specifically designated by either of these.)
- i. All cards requested on behalf of the University shall be sent to the program administrator (not to individual cardholders) by a traceable delivery method.
  - ii. All cards shall show the University name, an individual cardholder's name, the University logo, and indicate they are for official use only.
  - iii. The individual cardholder named on a card shall be responsible for its possession and use.

### **1.3.3 Telephone, Facsimile, E-Quotes, and Written Quotes:**

Telephone and facsimile offers may, unless circumstances render it impossible, be accepted in response to solicitations that are not required to be sealed. All quotes must be followed up in writing, including the North Carolina General Terms and Conditions.

### **1.3.4 Open Market Solicitations:**

An open market solicitation is the fair and open solicitation of offers for the purchase of

commodities, printing, or service which are not covered by a term contract. Competition shall be reasonable and adequate for the amount of the expenditure and the specific requirement. The University may request approval to purchase a specific product brand; however, one or more of the conditions for the waiver of competition shall be identified and supported to justify the purchase (See Waiver of Competition.)

### **1.3.5 Statewide Term Contract (Goods or Services):**

A “term contract” is a contract intended to cover normal requirements for a commodity, printing, or contractual service for a specified period of time based on predicted usage. It is also referred to sometimes as a “requirements contract” or “indefinite quantity contract”.

Commodities on statewide term contracts are competitively bid. Some considerations in establishing statewide term contracts are as follows:

- A. Items most commonly used or purchased by the State;
- B. Obtain lower prices through volume discounts;
- C. Transportation costs are included in the pricing;
- D. For some items, standards have been established and items have been tested;
- E. Warranties may be included in the contract; and
- F. Online catalogs are available within the state’s E-Procurement system.

Every statewide term contract and agency specific term contract has different information pertinent to that specific contract for review on the P&C website.

Read Each Contract Carefully Prior to Ordering.

NC State term contracts are established by P&C or SITP for state-wide use. Most of the statewide term contracts for commodities specify a minimum and maximum quantity (or dollars). Orders below the minimum shall be obtained in accordance with University procurement procedures. (See 1.1.1A Delegations.) Orders that exceed the maximum quantity must be forwarded to the purchasing office for processing with P&C or SITP.

If a waiver, emergency purchase or pressing need arises, a term contract supplier should be given the opportunity to satisfy the requirement, if the requirement is covered by a term contract and time permits such action.

### **1.3.6 Mandatory versus Convenience**

A mandatory statewide term contract must be used by all Executive Branch State Government Agencies.

A convenience statewide term contract may be used by all Executive Branch State Government Agencies and non-State Agencies permitted by law.

Refer to the websites below to view the statewide term contracts available by Statewide IT Procurement and the Division of Purchase and Contract:

<http://www.its.state.nc.us/ITProcurement/TermContracts/TContracts.asp>  
<http://www.pandc.nc.gov/StateWideContracts.htm>

### **1.3.7 Abnormal Quantity**

Any requirement that exceeds a specific dollar amount, on a Statewide Term Contract, must be forwarded to the University Purchasing Office for processing. The Purchasing Office will work with P&C or SITP to complete this purchase. P&C or SITP, as its sole discretion, may process any such requirement in one of the following ways.

- A. Purchase may be authorized at the current level of pricing with the current contract vendor(s); or
- B. Additional discounts from the current level of pricing may be negotiated with the current contract vendor(s); or
- C. A separate Invitation for Bids may be issued for the requirement.

### **1.3.8 Agency Specific Term Contract**

“Agency specific term contract” is established by P&C, SITP, or the University (if it is under the University’s delegation) for use by the University when a commodity, printing or service is not covered by a statewide term contract.

### **1.3.9 Waiver of Competition**

Under the specific conditions listed in 01 NCAC 05B .1401, or otherwise justified in the public interest by the SPO (or University if less than \$50,000), competition may be waived. Those situations in which a waiver is possible are listed below, and must be documented with a signed and dated request and signed and dated approval. When seeking the waiver, the request must identify those specific facts or circumstances that support a waiver; simply repeating the language of the applicable category is not sufficient.

Example: A department requests to purchase Brand X spectrometers from Vendor Y.

(Very) Poor justification: Vendor Y is the only available source of supply for Brand X.

Good justification: The department lab performs critical analyses for the presence of minute amounts of certain chemicals, and the instruments used must be very precise and well-calibrated. In order to give predictable results across samples, the lab has standardized on Brand X spectrometers and currently uses 7 in its facility. The Brand X manufacturer will warrant the accuracy of its equipment only if it is sold and serviced by an authorized dealer. Vendor Y is the only authorized dealer within 500 miles. Due to the cost of travel and the short response time required if repairs are needed, Vendor Y is the only dealer that can provide

service for an economically reasonable price. Attached are Service cost estimates for Vendor Y and the next two closest authorized dealers.

Contact the Purchasing Office for a Sole Source Justification or Waiver of Competition Form.

### **1.3.9a Rules or Situations that allow for a Waiver of Competition by Purchase and Contract**

- A. Where a needed product or service is available from only one source of supply;
- B. Where emergency action is indicated;
- C. Where competition has been solicited but no satisfactory offers received;
- D. Where standardization or compatibility is the overriding consideration;
- E. Where a donation predicates the source of supply;
- F. Where personal or particular professional services are required;
- G. Where a particular medical product or service, or prosthetic appliance is needed;
- H. Where a product or service is needed for the blind or severely disabled and there are overriding considerations for its use;
- I. Where additional products or services are needed to complete an ongoing job or task;
- J. Where products are bought for “across the counter” resale;
- K. Where a particular product or service is desired for educational, training, experimental, developmental or research work;
- L. Where equipment is already installed, connected and in service, and it is determined advantageous to purchase it;
- M. Where items are subject to rapid price fluctuation or immediate acceptance;
- N. Where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies which thwarts normal competitive procedures;
- O. Where the amount of the purchase is too small to justify soliciting competition or where a purchase is being made and a satisfactory price is available from a previous contract;
- P. Where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable Nonprofit organization(s); and
- Q. Where a used item(s) is available on short notice and subject to prior sale.

Reference link to Administrative Code: <http://www.pandc.nc.gov/admcode.aspx>

### **1.3.9b Rules or Situations that allow for a Waiver of Competition for SITP**

Under conditions listed in this Rule, and otherwise if deemed to be in the public interest by the SCIO or his designee, competition may be waived ([09 NCAC 06B .0901](#)). If the procurement is under the delegation of the University, the University may waive competition in conformance with this Rule. If the procurement is over the University's delegation, requests for waiver shall be submitted to SITP for appropriate determination. Competition may be waived under the following conditions:

- A. Where competition is not available;
- B. Where a needed product or service is available from only one source of supply;
- C. Where emergency action is indicated;
- D. Where competition has been solicited but no satisfactory offers received;
- E. Where standardization or compatibility is the overriding consideration;
- F. Where a donation predicates the source of supply;
- G. Where personal or particular professional services are required;
- H. Where a product or service is needed for a person with disabilities and there are overriding considerations for its use;
- I. Where additional products or services are needed to complete an ongoing job or task;
- J. Where a particular product or service is desired for educational, training, experimental, developmental or research work;
- K. Where equipment is already installed, connected and in service, and it is determined advantageous to purchase it;
- L. Where items are subject to rapid price fluctuation or immediate acceptance;
- M. Where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies that thwarts normal competitive procedures;
- N. Where a purchase is being made and a price is available from a previous contract;
- O. Where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable Nonprofit organization(s);
- P. Where a used item(s) is available on short notice and subject to prior sale.

Reference link to Administrative Code: <http://www.pandc.nc.gov/admcode.aspx>



### **1.3.10 Emergency**

When an emergency action is necessary and the expenditure is over the University's delegation, prior verbal approval should be obtained from P&C or SITP, if time permits.

- A. A situation that endangers lives, property, or causes the immediate discontinuation of a vital program and which can be rectified only by immediate on-the spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services .
- B. The University should negotiate with a potential vendor(s) in an effort to acquire the quality of good or service needed at the best possible price, delivery, terms and conditions. A solicitation document requesting or inviting an offer(s) shall be issued, including standard language terms and conditions unless circumstances prohibit their use.
- C. Subsequently, whether or not such prior approval was possible, if the expenditure is over the University's delegation, an explanation of the emergency purchase shall be reported in writing to P&C or SITP.

If under the University's delegation, documentation shall be included in the University's procurement file.

Reference link to Administrative Code:

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-52.1>  
[http://www.ncleg.net/enactedlegislation/statutes/pdf/bysection/chapter\\_147/gs\\_147-33.103.pdf](http://www.ncleg.net/enactedlegislation/statutes/pdf/bysection/chapter_147/gs_147-33.103.pdf)

### **1.3.11 Pressing Need**

Pressing needs are to be approved by the University Purchasing Office prior to procurement. Circumstances demonstrating the pressing need must be described.

- A. The University may make purchases of commodities, printing or services in the open market in cases of emergency or pressing need. For this purpose, a pressing need is one arising from unforeseen causes including, but not limited to, delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work. Lack of reasonable forethought or planning is not normally justification for a pressing need.

- B. The University should negotiate with a potential vendor(s) in an effort to acquire the quality of commodity, service or printing needed at the best possible price, delivery, terms and conditions. A solicitation document requesting or inviting an offer(s) shall be issued, including standard language, terms and conditions issued by the Purchasing department, unless circumstances prohibit their use.
  
- C. When a pressing need action is necessary and the expenditure is over the University's delegation, prior verbal approval should be obtained from P&C, if time permits. Subsequently, whether or not such prior approval was possible, if the expenditure is over the University's delegation, an explanation of the pressing need purchase shall be reported in writing to P&C.

If under the University's delegation, documentation shall be included in the University's procurement file.

Reference link to Administrative Code:

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-57>

### **1.3.12 Exemptions**

#### **1.3.12a Exemptions for P&C**

- A. Except as provided in Paragraph (C) below, it is not mandatory for the following items and services to be purchased through P&C:
  - 1. Purchase of liquor
  - 2. perishable articles such as fresh meats
  - 3. published books, manuscripts, subscriptions to printed material, packaged copyrighted software products, and like material
  - 4. services provided by individuals by direct employment contracts with the State
  - 5. public utility services (gas, water and electricity)
  - 6. telephone, telegraph and cable services furnished by those companies;
  - 7. services provided which are subject to published tariff rates as established by the North Carolina Utilities Commission
  - 8. services which are merely incidental to the purchase of supplies, materials or equipment such as installation services
  - 9. contracts for construction of and structural changes to public buildings

10. personal services provided by a professional individual (person) on a temporary or occasional basis, including (by way of illustration, not limitation) those provided by a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts and similar professions; the exemption applies only if the individual is using his/her professional skills to perform a professional task; a personal service may also be a consulting service
  11. services provided directly by an agency of the State, federal or local government, or their employees when performing the service as a part of their normal governmental function
- B. In addition to products and services exempted by statute, the SPO may determine:
1. That competition will not enhance the price that the State would receive for the product or service; and,
  2. That competition will not enhance the quality of the product or service that the State would receive.
- C. That soliciting competition for bakery products and dairy products shall be handled by the University in accordance with standard procurement guidelines, regardless of the dollar value of the proposed contract, but the contract will be awarded through P&C if over the agency's delegation.

Reference link to Administrative Code:

[https://www.pandc/nc/gov/admcode.htm#P1089\\_71567](https://www.pandc/nc/gov/admcode.htm#P1089_71567)

### **1.3.12b Exemptions for SITP**

It is not mandatory for items listed in this Rule to be purchased through SITP.

1. Packaged copyrighted software products (i.e., off-the-shelf, retail-type purchases);
2. Services provided by individuals through direct employment contracts with the state;
3. Services that are merely incidental to the purchase of supplies, materials, or equipment such as installation services;
4. Personal services provided by a professional individual (person) on a temporary or occasional basis;
5. Services provided directly by an agency of the State, federal or local government, or their employees when performing the service as part of their normal governmental function; and

6. Information technology subscriptions for printed materials or online services.

Reference link to Administrative Code:

[09 NCAC 06B .1301 EXEMPTIONS](#)

### **1.3.13 Conditional Grants**

Where a grant, donation, or special discount is predicated upon making a purchase from the grantor, the proposed transaction shall be explained in writing and shall have prior approval of the SPO. Prior to approval, the SPO shall consider the conditions placed on the grant, donation, or special discount, and how they will affect the University and the State, the cost of agreeing to such conditions, and the market conditions. When a donation from a private source is predicated upon making the purchase or lease from a specific source, the purchase or lease may be made without prior approval of the SPO. This only applies if the donation from the private source covers 100% of the purchase price.

### **1.3.14 Federal Grants**

An award of financial assistance, the principal purpose of which is to transfer a thing of value from a federal agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States. A grant is distinguished from a contract, which is used to acquire property or services for the federal government's direct benefit or use. When the government is procuring goods or services for its own direct benefit, and not for a broader public purpose, the law requires use of a federal contract.

Reference link to Administrative Code:

[§ 143C-6-21. Payments to nonprofits/  
chapter 143c/gs 143c-6-21.pdf](#)

If the University receives grant money to pay for a contract, the University must consider the nature of the relationship with the contractor. Is the relationship a vendor relationship or a sub-recipient relationship? Sub-recipient is defined as a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency.

Vendor is defined as a dealer, distributor, merchant or other seller providing goods or services that are required for the conduct of a federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program.

If the relationship is that of a sub-recipient, then federal guidelines and cost principles must be followed. Federal grants have specific compliance requirements which are outlined in the

Audits of States, Local Governments and Nonprofit Organizations. The University is encouraged to ask federal agencies administering the particular grant programs to identify essential and mandatory clauses that should be used in the University's sub-recipient agreements. It should be noted that State agencies distributing grant funds have an obligation to ensure that sub-recipients adequately perform all agreed-upon services.

### **1.3.15 Across the Counter Purchases**

Purchases of items for "across the counter" resale by an agency are not handled through Purchase and Contract. However, all purchases of items for use by agencies, even if channeled through bookstores or other internal supply sources, including stockrooms and warehouses, are to be made in accordance with the rules adopted in this manual.

The University is responsible for adhering to the Administrative Code, unless a specific exemption exists in the General Statutes:

- Purchase from statewide term contract
- Seek competition (if not purchased from statewide term contract) when more than \$5,000; use state's solicitation form, including the state's terms and conditions
- Advertise solicitation on IPS – universities over \$25,000
- Waiver of competition documentation (if competition is not sought)

### **1.3.16 Preferences**

- A. The University may purchase goods and services directly from a nonprofit work center for the blind and severely disabled as long as:
1. The purchase of goods does not exceed the University's delegation, and
  2. The goods or services are not available under a term contract, and
  3. The goods or services must be of suitable price and quality, as determined by the University and the department.
- B. The Department of Public Safety (Correction Enterprises) of North Carolina has a preference statute that controls the sale of prison industry products and prohibits their sale to the private sector. The University shall give preference to the Department of Public Safety products in purchasing articles, products, and commodities which are needed and which are manufactured or produced within the State prison system and offered for sale to them by the Department of Public Safety. Delegation limits do not apply to products purchased from Correction Enterprises.

Products available from the private sector that is also offered by Correction Enterprises shall be purchased from the private sector only when it is determined that the Correction Enterprises product will not satisfy the requirement or will not be available when needed. The purchase file should contain documentation from Correction Enterprises stating that the item(s) cannot

be supplied. Competitive bidding shall not apply to articles or commodities available from Correction Enterprises.

Reference link to Correction Enterprises:

<https://www.correctionenterprises.com/about/>

### **1.3.17 Use of Purchasing Power for Private Gain**

The purchasing power of the State or the University shall not be used for private advantage or gain. Purchases under contracts made by the State or the University, except those in accordance with G .S. 143-58 .1 shall not be allowed for personal use or ownership by employees or other individuals.

This prohibition shall not apply if:

- The agency through which the property or services are procured had established policies and procedures permitting such purchases in order to provide for the mutual benefit of such persons and the agency involved, or the public benefit or convenience; and
- Such policies and procedures, including any reimbursement policies, are complied with by the person permitted to use the purchasing or procurement procedures.

### **1.3.18 Auctions**

All commodities covered by term contracts must be purchased from those contracts. If buying an item that is not covered by a term contract and the dollar amount is under the agency's delegation, the executive officer of the University may authorize purchase through auction.

If the dollar expenditure will be over the University's delegation, then prior approval must be obtained from the SPO or SCIO, unless it is for an emergency or for a pressing need, which the purchase would then be governed by the rule applying to Emergencies and Pressing Needs.

## Section 2 – General Procurement Planning and Guidelines

### 2.1 Preparing the Written Solicitation

All solicitations for purchases over \$25,000 and associated addenda documents must be posted to the internet via [Interactive Purchasing System](#) (IPS). The purchaser should print one copy of the bid and place it in the procurement file. Copies are only produced by request for those vendors who cannot access the bid via the Internet.

- A. Solicitations: Typically these will be a Request for Quotes (RFQ), Invitation for Bid (IFB), or Request for Proposals (RFP). Should convey to the reader, in a clear, concise and logical sequence, the information necessary to answer the basic questions of who, what, why, where, when and how.
- B. Terms and Conditions: Terms and conditions must be in writing, be clear and concise, and express the University's requirements. The North Carolina General Terms and Conditions shall be a part of every written solicitation for goods and services over \$5,000 issued by the University. Exceptions to the use of the terms and conditions must be approved by the University's legal counsel or the SPO.
- C. Pre-bid or Pre-proposal Conferences: Conferences or site visits early in the solicitation cycle provide an opportunity to emphasize and clarify critical aspects of solicitations, eliminate ambiguities or misunderstandings, and permit vendor input. Conferences/site visits should be conducted with potential bidders or suppliers when issuing solicitations for complex, or critical requirements. Attendance at conferences or site visits may be either optional (urged and cautioned) or mandatory. An attendance roster must be signed by a representative of all attendees. When mandatory attendance is stipulated in the solicitation, only bidders who expect to bid and who have arrived on time, will be accepted. Late-comers may attend, but cannot be allowed to sign the attendance roster. The University and the issuing department should carefully consider whether it is absolutely necessary that bidders attend in order to understand the solicitation and submit a response.

An addendum must be issued to answer questions received about the Solicitation or if a modification to the solicitation is required.

- D. Response Time: When establishing an opening date and time, buyers should allow for the vendor's time required to respond to procurements as well as erratic mail deliveries. The sealed bid or proposal opening date shall be no less than ten (10) days after issuance of the solicitation document. Recognize that complex requirements will require a longer preparation time.
- E. Acceptance Period: Bids are valid for a minimum of 45 days unless a longer or shorter period of time is specified in the solicitation or bid response.

### **2.1.1 Requisition Process**

P&C or SITP reviews all solicitations over the University's delegation and issues a letter authorizing the award of a contract by the University. The UNC Asheville Purchasing Office will then work with the department to complete a purchase requisition in Bulldog Buyway for the purchase of the goods and services awarded in the contract.

The following items will be needed to complete a requisition:

1. Complete solicitation document of the awarded contract
2. Copies of other complete solicitations received for this solicitation
3. Sole source justification or waiver of competition documents if applicable
4. Letter of award from P&C or SITP
5. Source of funds (federal, State, grant, etc. , and percentage of each)
6. Requisitions should be entered for the current fiscal year only with explanation of the term (i.e., 1<sup>st</sup> year of 3 year contract, or 3 months of 1<sup>st</sup> year of 3 year contract.) Future requisitions should be entered at the beginning of a new fiscal year for the next term of the contract.

### **2.1.2 Control Numbers**

Requisitions sent to P&C are assigned a unique, sequential control number. This number allows staff to locate requisitions when a call is received from an agency or from vendors. This number stays with the procurement file throughout its existence.

### **2.1.3 Types of Contracts**

Listed below are various types of contracts

#### **A. Fixed Price Contracts:**

1. **Firm Fixed Price:** Fixed pricing agreement where firm unit or total prices are established at the time of order placement or contract award for goods or services. A fixed price contract may result from bidding or negotiation processes. Specifications are clear and costs are predictable. There is minimal risk to the purchasing activity when firm fixed price contracting is used. This type of contract encourages efficient performance and is least costly to administer. Financial requirements are known. The use of firm fixed price contracting may be inappropriate if requirements or specifications are unclear or indefinite.
2. **Fixed Price with Escalation/De-escalation:** This fixed price agreement provides for price adjustments, up or down if specified contingencies occur. This type of contracting may result from bidding or negotiation processes. It is used to eliminate fluctuations in vendor's prices due to unstable markets. The contract



period is typically over a long period of time. The use of fixed price contracts with escalation/de-escalation reduces the need for contractors to inflate cost of goods to offset unstable markets or economic conditions. The risk is partially transferred to the buyer. Costs are increased through greater contract administration efforts that are required by this type of contracting. Normally, any upward price adjustment should be justified and approved by the State prior to its effectiveness.

B. Requirements-Type Contracts: Requirements-Type contracts are agreements for performance over a specified period of time, when quantities are indefinite. They have no fixed total dollar amount; rather, they are unit price based. They establish a framework under which goods/ services are provided, but it is the degree of purchase order activity against the contract that will ultimately determine its total value. Effective administration of these open ended agreements requires that the agency maintain some record of the degree of activity against these contracts. Purchasing must have some means to capture, analyze, and report usage information. Purchase order activity must be periodically reviewed for compliance with the terms of the agreement. Contract expenditure activity should always be examined prior to the exercise of any renewal provision or re-solicitation. Normally, requirements contracts will be handled as a statewide or agency specific term contract.

C. Time and Materials (T&M) Contracts: The agreement for supplies or services is on the basis of billable hours, which include overhead, profit, and materials. Details of the work are known but the extent of the work may not be known. T&M contracts are suitable for maintenance, design, engineering, emergencies, etc. Competition is sought on the basis of labor-hour rate. These contracts may be expensive to administer. Whenever an agency or institution uses a cost-reimbursement agreement such as T&M to acquire needed goods/ services, it is essential that billed costs be analyzed (and challenged when appropriate) prior to their approval for payment.

When a time and materials agreement is used, departments must request a detailed job estimate which should include the amount and type of contract labor with associated rates and itemized material costs to allow evaluation of the reasonableness of its cost elements before authorizing the work to be performed. If it is determined that the estimate is not reasonable or in accordance with the terms of the contract, negotiation or the solicitation of additional estimates may be considered if permitted by the solicitation.

Contracts in which payment is calculated as cost-plus-a-percentage-of- cost is prohibited.

D. Blanket Purchase Orders

A. Blanket purchase agreements (BPAs) are contractual relationships which may be entered into with local vendors to obtain small dollar value expendable operating

supplies or services (less than an annual total of \$5,000) for which low or erratic demand usage exists. Basically, a set of terms and conditions are agreed upon between the buyer and seller wherein the seller will deliver or permit pick up of supplies ordered through a call system controlled by the individual who has received authorization from the purchasing office. The prevailing market price, less any trade and/or volume discounts as may be agreed upon, is charged and invoiced on a consolidated (usually monthly) basis.

The principle advantage of a BPA is the ability to delegate ordering authority to the user level, resulting in quicker access to the goods or services. Consolidated invoices are processed, which reduces the paper flow and administration. The success of this procedure is dependent upon the establishment and enforcement of proper controls.

BPAs may be entered into for supplies or services not available from contracts or other prior purchase commitments. Examples are hardware, electrical, office, plumbing supplies, or services such as electrical, locksmith, film developing, and painting. When practicable a minimum of two agreements should exist per item category.

## **2.2 Specifications**

Specifications can either enhance or inhibit competition because of how they are written. Specifications must be written to allow competition to the maximum degree possible. This can be accomplished by describing goods or services in a manner which meets the department's needs while not being unnecessarily restrictive or descriptive of a particular vendor's product. Unless otherwise expressly stated in the solicitation, all supplies and equipment furnished must be new, a current production model, and in first class condition. Demonstration, previously rented or reconditioned items are not considered new. The following specification (descriptive) categories are listed in the preferred order of use:

- A. Generic (Performance and Design). Buyers should analyze incoming requirements with a view towards soliciting the requirement on a generic specification basis. Under appropriate circumstances, performance specifications (setting forth the performance requirements), design specifications (setting forth the essential characteristics of the items solicited), or a qualified products list (QPL) may be used.
- B. Brand Name or Equivalent. When it is determined to be impractical to develop a generic specification, a brand name may be used to convey the general style, type, character, and quality of the article desired. Unless otherwise provided in the solicitation document, the name of a certain brand, make, or manufacturer does not restrict bidders to the specific brand or manufacturer named. Any article which the State, in its sole discretion, determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, and suitability for the

purpose intended, shall be accepted. The solicitation should inform a bidder, however, that the bidder must identify the equivalent product it intends to supply.

- C. Brand Specific. A brand specific specification restricts the acceptable products to those of one or more specified manufacturers. Use of brand specific specifications may be appropriate in situations such as:
1. when the desired product must be compatible with or is an integral component of the existing equipment or products, or where prequalification of products is necessary to support specific needs of a program
  2. when a product is covered by a patent or copyright; when the product must yield absolute continuity of results
  3. or the product is one with which a user has had extensive training and experience, and the use of any other similar piece of equipment would require considerable reorientation and training.

Use of a brand-specific specification must be approved in advance by P&C, based on a written justification describing why the particular brand is required.

Upon solicitation, every effort must be made to obtain full competition among the resellers which carry the manufacturer's product. The determination for the use of a brand specific specification shall be made in advance, in writing, and be included in the University's procurement file, if less than the agency's delegation.

Generally, if there is ambiguity or inconsistency in a written solicitation that results in a protest the protest will be handled by the legal representative of the University.

### **2.3 Commodity Codes**

The State has adopted the National Institute of Governmental Purchasing (NIGP) Code as the standardized system of coding for commodities and services as a part of the implementation of IPS, which utilizes a 5-digit class item code. This code is utilized for the following purposes:

- A. Provides a standardized method of sourcing
- B. Identifies the procurement as goods or services
- C. Provides electronic notification of bidding opportunities
- D. Identifies term contract items
- E. Provides detailed history of commodity purchases

Correct commodity code usage will promote accuracy in reporting and provides P&C and the SITP with the vital statistics needed to determine contract usage and vendor participation. Use of correct commodity codes is a factor considered in compliance reviews.

Agencies may search for commodity codes by accessing the P&C website. If you would like to find registered vendors by commodity code, you may do so visiting the [Eprocurement](#) website.

## **2.4 Qualified Product List (QPL)**

It is sometimes necessary to prequalify products and only solicit those that have been prequalified by compliance with the standard specifications for that commodity. In such cases, a list is maintained of specific products (QPL) which have been evaluated and determined to be acceptable in meeting predetermined minimum construction performance. This qualification is performed in advance of any particular purchase program or the term contract. By having a prequalification procedure, time and effort during the purchase cycle can be reduced. The qualification requirements must be established sufficiently in advance of the anticipated procurement to allow for evaluation and qualification of potential products. A contractor whose product or service has been determined not qualified will be advised in writing.

Access to QPLs

The official versions of Qualified Products Lists (QPLs) can be found at the link below. P&C will update QPLs as necessary based on the needs of using agencies and changes in the marketplace.

Reference link to QPLs

<http://www.pandc.nc.gov/qplist.aspx?Alpha=A>

## **2.5 Payment Terms**

Invoices shall be paid no later than 30 days after receipt of correct invoice or acceptance of goods and or services, whichever is later. The University is responsible for all payments to the contractor under the contract. Any payment terms in a solicitation document must comply with policies established by the Office of State Controller.

## **2.6 Award Criteria**

### **P&C:**

Unless expressly provided that the Best Value Trade-Off method will be used, a contract award will be based on the lowest and best bid(s) meeting specifications (most advantageous to the State). If any other factors are to be considered, they must be identified as such:

1. General reputation and performance capabilities of the bidder;
2. Substantial conformity with specifications;

3. Delivery and installation schedule;
4. Location and availability of service and repair facilities and personnel;
5. References provided for proposed equipment
6. Demonstration of proposed equipment, if required.

In appropriate circumstances, generally involving sophisticated equipment or service, the Best Value Trade-Off method may be used. If the Best-Value Trade-off method is used, the requirements described in (2) (a)-(e) below must be followed.

**SITP:**

When purchasing information technology under the SITP Rules, award will be based on the Best Value procurement methodology as provided by statute. Award shall be based either on the Lowest Cost Technically Acceptable method of source selection or the best value trade-off method of source selection.

1. Lowest Cost Technically Acceptable method:
  - a. The evaluation factors that establish the requirements of acceptability shall be set forth in the solicitation. Solicitations shall specify that award will be made on the basis of the lowest evaluated price of those proposals that meet or exceed the acceptability requirements for non-price factors.
  - b. Trade-offs between price and non-price factors are not permitted.
  - c. Proposals are evaluated for acceptability but are not ranked using the non-price factors.
  - d. Only clarifications are permitted.
2. Best Value Trade-Off method: A trade-off method of source selection is used when it is in the State's best interest to consider award to other than the lowest priced offer or other than the highest technically qualified offer. For a solicitation using a trade-off source selection method, the following shall apply:
  - a. All evaluation factors that will affect the contract award decision and their relative importance shall be clearly stated in the solicitation.
  - b. Price must be considered as an evaluation factor in the selection process. The solicitation shall state the importance or numerical weight of all evaluation factors including price.
  - c. Offers are ranked using the evaluation factors and their relative importance or weight as defined in the solicitation document. The relative overall ranking of any offer may be adjusted up or down when considered with, or traded-off

against, other non-price factors. For example, an offer with the lowest price when compared to other offers would normally receive the best ranking in the price evaluation category. However, if other non-price evaluation factors received low rankings, the overall ranking of the offer would be reduced.

- d. Clarifications are permitted.
- e. If applicable, communications and negotiations may be permitted after receipt of offer.

## **2.7 Transportation/Freight**

The State shall specify the transportation/freight method of shipment in the solicitation document as F.O.B. (Free on Board) Destination, unless circumstances require that another method of shipment be used. The purchase order number must be shown on all packages and shipping manifests to ensure proper identification and payment of invoices. Complete packing list must accompany each shipment. Suppliers must not ship products until they have an official purchase order.

- A. F.O.B. Destination. It is the basic policy of the State to solicit bids for goods F.O.B. Destination, which means that freight charges are paid by the seller who owns and assumes all risk for the goods until they are accepted at the designated delivery point. The cost of shipping the goods should be included in the quoted price or by the bidder or offeror as a separate line item, but the invoice amount cannot be more than the total bid price.
- B. F.O.B. Origin. Under F.O.B. Origin, the vendor is required to select the most economical method of shipment consistent with the required delivery date, prepay the freight charge and include it in the invoice. Regardless of the F.O.B. point, the State accepts title only when goods are received. By definition, F.O.B. Origin means that the buyer takes ownership at the seller's location and would be responsible for filing claims if the goods are damaged during shipment.
  - 1. Under F.O.B. Origin, the total cost for freight to destination, shipping and handling charges etc., shall be included in determining the lowest responsive and responsible bidder. In such cases, the buyer is required to obtain the actual or estimated cost of shipment and show the freight, shipping, and/or handling cost as a line item on the purchase document. Both the F.O.B. point and shipping cost must be clearly shown on the purchase document.
  - 2. Before approving an invoice for payment the University should review it and compare it to the award document to determine if the shipping costs are accurate. No charges on the invoice not accounted for in the bid can be approved for payment.

## **2.8 Samples**

A request for bid samples must be clearly indicated in the solicitation document. Upon request from the State, the Supplier must furnish a sample(s) of items offered. Samples must be furnished, free of expense (including shipping), and if not destroyed will, upon written request be returned at the bidder's expense. Otherwise the samples will become property of the State. Samples furnished either in connection with a bid or proposal, testing, or when delivered for use in developing a specification should be managed as follows:

1. Samples should be labeled with the Purchaser's name, Commodity, Solicitation Number, Term Contract Number, or Quote Number and the projected disposal date for the sample(s).
2. The responsible person should return or dispose of, the test samples as soon as possible after testing has been completed.
3. Sample items for term contracts will be held for 90 days following expiration of the contract.
4. The prompt return of samples to the owner will be the responsibility of the purchaser or engineer, if the owner requests the return.
5. Samples released to the using agency by the owner or unclaimed after ninety (90) days from completion of delivery will be either placed in use within the using agency, transferred to another State agency, recycled, sold through State Surplus Property, or discarded as trash .
6. The file must be documented as to disposition of samples.

## **2.9 Vendor Presentations/Product Demonstration**

If specified in the solicitation document, the evaluators may request oral presentations or discussion with any or all suppliers for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, suppliers are cautioned that the evaluators are not required to request clarification. A presentation cannot be used to alter or expand the scope of the bid.

The State reserves the right to require a demonstration of the exact model of equipment offered. Upon request by the State, such demonstration may be performed by bidder or his authorized representative, before award of contract, at the agency's facility, free of charge to the State, and for the purpose of assessing suitability of the offered equipment for the intended use. Failure of bidder or his authorized representative to perform a demonstration (if requested) in accordance with the above may be grounds for disqualification of the bid. The results of such demonstration will be considered in the evaluation of the offer.

## **2.10 Spend Analysis (if applicable)**

Spend analysis is the process of collecting, cleansing, classifying, and analyzing expenditure data with the purpose of reducing procurement costs, improving efficiency, and monitoring compliance. It can also be leveraged in other areas of business such as inventory management, budgeting and planning, and product development.

There are three core areas of spend analysis

- Visibility
- Analysis
- Process

By leveraging all three, agencies can generate answers to the crucial questions affecting their spending, including but not limited to:

- Is it necessary to purchase
- Are there options of obtaining without purchasing
- What am I really spending
- With whom am I spending it
- Am I getting what's been promised for that spend

Spend analysis is often viewed as part of a larger domain known as spend management which incorporates spend analysis, commodity management and strategic sourcing.

## **Section 3 – Procurement of Goods and Services**

### **3.1 Scope of Work and Specifications**

The primary purpose of a scope of work or purchase specification is to provide a basis for obtaining goods or service that will satisfy a particular need at an economical cost. North Carolina's purchasing program is built on the principles of competition and transparency. Purchasers shall seek competitive offers, except as may be permitted by statute or rule, made by qualified and responsible sources of supply. Where competition is available, every purchaser shall use/write specifications and requirements that are reasonable to satisfy the need, but not unduly restrictive, that encourages competition in the open market and will result in the best possible contract for the commodity, printing or service needed.



### **3.2 Gathering Information from Vendors prior to preparing a Solicitation Document**

Request for Information (RFI) - A Request for Information is used primarily as a planning tool. The RFI is a method that may be used to gather information in order to prepare a complete and accurate solicitation document when the University does not have the necessary information to do so. RFIs are used to identify industry standards, best practices, potential performance measures, and cost or price structures or to generally ascertain the level of interest of prospective respondents.

The RFI should provide as much information as practical to define the type of information that is being sought. The University may use the information gathered from vendor responses to finalize its solicitation document. The University is not required to incorporate any of the comments or suggestions made by the supplier, but, the hope is that the supplier will provide useful information to assist in the solicitation development process. As far as possible, vendor-supplied information should be synthesized and to meet the University's needs and it should not contain specifications, marketing data or text taken directly from a specific vendor's or manufacturer's material.

The RFI must state that it is not a request or offer and that no award will result. Since this is not a solicitation document the State's terms and conditions should not be included in the document.

### **3.3 Determining the Solicitation Method**

At this point it is important to determine the procurement method because it will be a major factor in the planning process. For example, the average procurement lead time for an Invitation for Bids and a Request for Proposals differs significantly.

A. Invitation for Bids (IFB) - The IFB is a formal, written solicitation document used for seeking competition and obtaining offers for easily defined goods and simple services. This document contains the specifications, instructions to bidders, terms and conditions, and any additional information the vendor may need to provide a bid response. This document is typically used for open market bids, agency specific term contracts and statewide term contracts. An IFB normally is issued on a "low bid meeting specifications" basis.

B. Request for Proposals (RFP) - The RFP is a formal, written solicitation document used for seeking competition and obtaining offers for more complex services or a combination of goods and services. This document contains specifications, general information on submitting proposals, terms and conditions and any additional information the vendor may need to provide a proposal response. When the best value

trade-off evaluation is used, the RFP must identify all evaluation criteria on which the evaluation will be based.

C. Request for Quotes (RFQ) – The RFQ is used for non-advertised competitive procurements. This document contains instructions for vendors, specifications, and terms and conditions. This document may be used as a waiver of competitive bidding or a single one time purchase. An RFQ cannot be used as the basis for award when competitive bidding is required.

### **3.4 Solicitation Requirements**

#### **3.4.1 Solicitations \$5,000 and under**

Solicitations for commodities, services or printing, not covered by a term contract, involving an expenditure of public funds of five thousand dollars (\$5,000) or less is considered a small purchase. (Also See Small Purchases Section 1.3.1). Formal competitive bids are not required, but multiple quotes should always be sought, if possible.

Below are examples of the most common methods that may be used:

- Request for Quotes (RFQ)
- Written informal quotes from vendors (a minimum of three is recommended)
- May use fax or email quotes: If phone quoting, keep record of item/service description, price quoted, delivery terms, FOB point, contact name and date of quote. Insure delivery and freight is included in total costs. Confirm verbal quotes in writing, and include the North Carolina General Terms and Conditions.
- If a service, consider:
  - a. Verify vendor’s insurance if work is on state owned/leased property or facilities,
  - b. Verify applicable contractor’s license,
  - c. Perform reference checks.
- If the price is not fair and reasonable, based on the estimated cost, seek competition from at least one additional vendor. Extensive research is not necessary; weigh administrative costs vs. product costs.
- Complete requisition in Bulldog Buyway and include copies of all quotes within the internal attachment section.

#### **3.4.2 Solicitations over \$5,000 and up to \$50,000**

Except under circumstances in which a waiver, small purchase, special delegation, exemption, emergency or a pressing need is permitted by rule, all purchases for more than \$5,000

involving the expenditure of public funds, made by agencies for those commodities, services and printing not covered by statewide term contracts, must comply with the following procedures . The two exceptions to this are when a department buys from either Correction Enterprises or from a Nonprofit Work Center for the Blind and the Severely Disabled (See Section 1.3.17 Preferences.)

For purchases made by a department involving expenditures over \$5,000, up to its general delegation limit (\$50,000):

- A. Competition shall be solicited.
- B. Solicitation documents requesting or inviting offers shall be issued by the University.
- C. Solicitation documents shall include standard language, including terms and conditions. Any deviations must have prior written approval from P&C and SITP. If additional terms and conditions are used by the university, they shall not conflict with SITP or P&C's General Terms and Conditions.
- D. Universities may advertise solicitations on the IPS site. Solicitations greater than \$25,000 must be posted on IPS. The solicitation shall be advertised at a minimum 10 days prior to the date designated for opening.
- E. After all solicitations are opening, the university department reviews and evaluates all solicitation documents received, then makes a recommendation for award to the university Purchasing Office.
- F. All solicitation documents and a letter of recommendation for award is sent to P&C or SITP by the university Purchasing Office for their review and approval.
- G. P&C or SITP reviews the solicitation documents and issues a letter authorizing an award to be made by the university.
- H. The Purchasing Office works with the department to complete a purchase requisition in Bulldog Buyway for the award. Requisitions are created for the current fiscal year with subsequent requisitions entered at the beginning of the next fiscal year for the duration of the contract award.

**NOTE:** Approval must be received from SITP **prior to posting** all SITP solicitations

Reference link to IPS

<https://www.ips.state.nc.us/ips/>

### **3.4.3 E-mail, Faxes, Telephone bids**

E-mail, facsimile, and telephone offers shall not be accepted in response to solicitations that are required to be sealed. Sealed offers are required for procurement of goods and services that exceed the university's delegation.

### **3.5 Statewide Information Technology Procurements (SITP) over \$100,000**

Certain SITP procurements over \$100,000 may be considered an SITP project by the Enterprise Project Management Office (EPMO) and, therefore, require use of additional processes and procedures. Once the university's needs are identified, the appropriate procurement methods must be utilized, and the Project Portfolio Management (PPM) Process must be utilized, if applicable.

A project is defined as a temporary endeavor undertaken to create a project or service. SITP projects can be procurements that provide for products and services such as implementation of new or enhanced software, implementation of new or upgraded hardware or infrastructure components, utilization of SITP Enterprise Services, application hosting, or software as a service (SaaS). SITP procurements that are designated as SITP projects require adherence to the PPM Process.

The PPM Process is designed to build and implement the State's SITP assets by improving the management of SITP projects in state government and facilitating implementation of investment projects successfully (e.g., within scope, within budget, on schedule, and with the desired business results.) It provides a framework for the governance process and disciplines associated with the approval and monitoring of projects at the university and State SCIO levels. Approval or rejection of the project is determined using periodic reports which must include information regarding projects costs; issues related to hardware, software or training; projected and actual completion dates; and, any other information related to the implementation of the SITP project. These reports are entered into the tool as necessary. Use of the tool is intended to accomplish three functions:

1. to provide workflow to manage the decision making process with roles, responsibilities, and accountabilities relating to the project;
2. to provide workflow and templates for the system development life cycle – instructions for how to construct or build a system, such as what to do, when to do it, and how to do it; and,
3. To provide workflow and templates for project management. The SCIO will approve or reject projects based on analysis of the project using information in the PPM Tool. Additional information about the Project Portfolio Management Process can be found at the link below.

Reference link to EPMO

<http://www.epmo.scio.nc.gov/services/default.aspx>

### **3.6 Public Opening for Solicitations**

At the time and location given on the solicitation document, a public bid opening will be held and a tabulation of supplier's responding to the solicitation will be prepared (See Section 4.5 Conducting a Bid Opening).

Remember:

- No late bid may be opened or considered. In order to be timely, a bid must be received in the office specified in the solicitation at or prior to the time listed for the bid opening.
- If less than two bidders are present at the opening, then the purchaser and at least one other university employee must be present for opening the bids.
- The bid opening must occur immediately after the bid deadline or as quickly thereafter as is possible.
- Tabulations must be posted to IPS as soon as practical, and certainly before noon on the next business day after the opening.

#### **3.6.1 P&C Bid/Procurement Opening**

- One Step (IFBs or RFPs) - At that date and time specified in the solicitation, bids from each responding vendor will be opened publicly and the name of the vendor and cost(s) offered will be announced.
- Two Step (RFPs using Best Value) - At that date and time specified in the solicitation, proposals from each responding vendor will be publicly opened and the name of each vendor announced publicly. A notation will also be made whether a separate sealed cost proposal has been received. Cost proposals will be placed in safekeeping until publicly opened at a later date.

Note: Suppliers providing a technically acceptable proposal must be given a two day written notice of the cost proposal opening.

#### **3.6.2 SITP Bid/Proposal Opening**

At the date and time specified in the solicitation, bids/proposals received will be opened publicly. Only the names of responding suppliers are revealed. Price information shall not be made public until after award.

## **Section 4 – Competitive Sealed Bidding**

### **4.1 Preparation of Solicitation Document**

At a minimum the following information must be included in the solicitation document:

- Specifications, requirements, terms and conditions, delivery information.
- University name
- Buyer name
- Phone number
- Solicitation identification number
- Title (a short description of the commodity, service or printing requirement)
- Opening date, time, and place (university office location, including room number, not merely street address or name of building)
- Other relevant information

If the solicitation includes a mandatory or non-mandatory conference or site visit, this information shall also be furnished with the advertisement, to include:

- Date and time
- Exact location
- Contact person and phone number
- Any other requirement such as number of attendance allowed, pre- registering, etc.

#### **NOTE: Legal Review, Over \$1,000,000**

In 2011 the General Assembly mandated that all proposed solicitations for “supplies, materials, printing, equipment, and contractual services” with an estimated value exceeding \$1 million must be reviewed by the Attorney General or his designee prior to posting. Legal counsel should be included in the solicitation preparation process as early as practicable.

### **4.2 Advertising Solicitation**

The solicitation shall be advertised at a minimum 10 days prior to the date designated for opening

- The Interactive Purchasing System (IPS) must be used to advertise formal solicitations over \$25,000
- This rule does not prevent solicitation of offers by additional direct mailings, or phone calls, or additional advertisement by an agency.

### **4.3 Solicitation Addenda**

In the period after a solicitation is issued and before the opening date, addenda may be prepared to document responses to questions received about the solicitation, as well as to document any changes to the solicitation document. Any aspect of the solicitation document can be changed during this period, except for the NC General Contract Terms and Conditions. Addenda should be posted on IPS in the same manner as the original solicitation posting.

### **4.4 Bid Opening**

All bids and proposals must be opened publicly. The names of the bidders and other information such as manufacturer and model number of the items offered, delivery, and prices (unless it is a two-step process) must be announced if any vendor or other persons attend the opening. This includes all offers received, including those that do not comply with the instructions or terms and conditions of the bid. Late bids are not opened.

#### **4.4.1 Signed Bid**

All received bids must be signed by the bidder to be accepted for consideration. The bidder's signature makes the offer a binding contract. No exceptions to this requirement can be made.

#### **4.4.2 Responsive Bidder**

A responsive bidder is considered a bidder who meets all criteria of a bid such as, but not limited to, bid execution, and submittal of all required data within the required time frame.

#### **4.4.3 Financial Evaluations Responsive Bidder**

Financial information, statements and/or documents submitted with a proposal shall be evaluated to determine whether the offeror has sufficient ability to perform the contract and that the offeror is financially solvent.

#### **4.4.4 HUB Status**

The State invites and encourages participation in the procurement process from businesses owned by minorities, women, disabled business enterprises and non-profit work centers for the blind and severely disabled.

#### **4.4.5 References (if applicable)**

The State reserves the right to require a list of users of the exact item offered. We may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.

#### **4.4.6 Insurance Coverage (if applicable)**

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of the contract. All such insurance shall meet all laws of the State.

During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance required by the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits. The buyer may request proof of insurance coverage prior to award of contract.

- a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.
- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

#### **4.4.7 Recall Offers**

An authorized agent or vendor may recall an offer prior to opening, through a signed request submitted on the company letterhead, with a company official signature and title. The recalled offer should remain in the bid file, unopened along with the recall offer.

#### **4.5 Conducting a Bid Opening**

Advertised procurements shall be publicly opened at the time, date, and place identified in the solicitation document. At the time of opening, the names of the companies, the manufacturer(s) and catalog number(s) of the item(s) offered prices, and deliveries submitted shall be tabulated, and this tabulation shall become public record, except as provided below.

##### **4.5.1 Late Offers, Modifications, or Withdrawals**

It is the sole responsibility of the supplier to have their offer actually delivered to the correct office on time, regardless of the mode of delivery used, including the U.S. Postal Service or any other delivery services available. No late offer or late modification shall be considered unless the offer or modification would have been timely except for the action or inaction of university personnel directly involved in the procurement process. Withdrawals may be requested in



writing after bids are opened. The Purchasing Office shall review the reasons given for any withdrawal request to ensure that allowing the withdrawal would not compromise the procurement process; and, inform the SPO or the SCIO of the reason for the request and whether it was allowed. If a withdrawal is requested prior to bid opening, the purchaser will not need to notify the SPO or SCIO.

#### **4.5.2 Witness**

The Purchasing Office will open the bid at the pre-determined date and time, with a witness present, unless at least two bidders are present for the opening. The witness must also be a university employee and must sign the bid opening sheet.

#### **4.5.3 Recording Results of Bid Opening**

1. Have all vendors in attendance sign the attendance sheet.
2. Prior to physically opening the bids, explain to those in attendance that the only public information that will be shared at this time is: bidder names, manufacturer/model number, delivery time, and prices. For SITP, only bidder's names are shared to the bid opening. Also give those present a brief explanation of the evaluation process and a rough estimate of the turnaround time before award.
3. Do not make any comments about addenda received or not received unless the pricing, manufacturer/model or delivery has changed.
4. Make sure that vendors understand that they are not to contact anyone other than the listed contact person on the solicitation during the evaluation period.
5. Make the vendor aware of the website where they can find the tabulations and the award when it is made.
6. All bids that are received by the designated bid opening time must be opened on the pre-determined date and time.

#### **4.5.4 E-mail, Faxes, Telephone bids**

No e-mail, facsimile, and telephone offers shall be accepted in response to solicitations that are required to be sealed. Sealed offers are required for procurement of goods and services that exceed the university's delegation.

#### **4.5.5 Bid Tabulation**

Bid tabulations can be electronically retrieved from the Interactive Purchasing System. Click on the IPS bids icon, click on Search by Bid Number, enter the bid number, and then search. Tabulations will normally be available at this web site not later than one working day after

opening. Lengthy tabulations may not be available on the IPS, and requests for tabulations that are not publicly available cannot be honored.

Reference link to IPS

<https://www.ips.state.nc.us/ips/BidNumberSearch.aspx>

#### **4.5.6 Legal Review, Over \$1,000,000**

In 2011 the General Assembly mandated that all proposed contracts for “supplies, materials, printing, equipment and contractual services” with a value exceeding \$1 million must be reviewed by the Attorney General (AG) or his designee. Each university is responsible for ensuring this legal review is performed before sending the award recommendation to P&C. Each proposed contract/award recommendation exceeding \$1 million must have had the required legal review before P&C approves it. The AG’s checklist and certification (see link below) must be completed and sent to P&C along with the university’s award recommendation. Term contracts exceeding \$1 million awarded by P&C also must be reviewed; there are no exceptions to this requirement. P&C contracts will be reviewed by general counsel and/or someone in the AG’s office (depending on total value.)

Note: While the preliminary review of the consolidated contract review checklist excludes the extension/renewal options in the value of the contract, the State Purchasing Officer interprets contract value to include all potential options and renewals for legal review and certification prior to submitting the recommended award to the Division of Purchase and Contract for approval. The value of the contract is the total amount for which an agency is seeking approval to spend under the contract.

Reference link to P&C

<http://www.pandc.nc.gov/Documents/ContractReviewProceduresMemo.pdf>  
[http://www.pandc.nc.gov/Documents/LegalReviewMandate-AG\\_materials.pdf](http://www.pandc.nc.gov/Documents/LegalReviewMandate-AG_materials.pdf)

## **Section 5 – Evaluations**

### **5.1 Basis for Rejection of Offers and Negotiation**

In soliciting offers, any and all offers received may be rejected in whole or in part. Basis for rejections shall include, but not be limited to the following:

- A. The offer being deemed unsatisfactory as to quantity, quality, delivery, price or service offered
- B. The offer not complying with conditions of the solicitation document or with the intent of the proposed contract

- C. Lack of competitiveness by reason of collusion or knowledge that reasonably available competition was not received
- D. Error in specifications or indication that revision would be to the State's advantage
- E. Cancellation or changes in the intended project or other determination that the proposed requirement is no longer needed
- F. Limitation or lack of available funds
- G. Circumstances which prevent determination of the lowest responsible or most advantageous offer
- H. Any determination that rejection would be to the best interest of the State

If the university does not receive a satisfactory offer in response to a solicitation and all offers are rejected, negotiations may be conducted with any or all known sources of supply that may be capable of satisfying the requirement. If it is determined by the university that soliciting offers again would serve no purpose, then negotiations may be conducted. The negotiations shall be conducted by that university if under their benchmark or delegation. Negotiations shall be conducted in writing and shall include standard language and terms and conditions issued by the Division of Purchase and Contract, unless otherwise provided by rule.

If the negotiations are conducted with only one source, or if only one source responds to the negotiations, the reason for lack of competition or for negotiating with only one source shall be documented in writing for public record. Negotiations may also be conducted under conditions that merit a waiver of competition, or in other situations that are advantageous as determined by the SPO.

## **5.2 Debarment Vendor List**

The university which issued the solicitation document resulting in the contract may find a contractor in default of contract for failing to perform in accordance with the contract requirements, terms and conditions. If a contractor is found in default of contract, the university which issued the solicitation document resulting in the contract may take action, immediate if necessary, to purchase the needed products, printing or services on the open market and charge any additional cost for the commodities, printing or service and expense for doing so to the defaulting contractor. If the university finds a contractor in default, such action and the circumstances shall be reported by the university to P&C or SITP in writing. This does not limit any other legal remedies that may be available to the university or the State. P&C or SITP may debar the contractor from doing business with the university or any state agency, for a period of time upon a finding by P&C or SITP that no basis exists to excuse the vendor's

default, that the default was material and that the default resulted in material delay or expense to the State.

### **5.3 Evaluations P&C**

This procedure provides the instructions for evaluating the responses to a solicitation. In determining the award of contracts, bona fide offers shall be considered and evaluated as provided by statute and applicable rules. All evaluation factors and criteria and their relative importance must be stated clearly in the solicitation document. Unless the solicitation provides otherwise, the relative importance is determined by the order in which the factors are listed. Specific percentages for the weight of each factor are not required, but if used, must be disclosed in the solicitation document. Relative strengths, deficiencies, weaknesses, and risks supporting the evaluation must be documented in the contract folder. The evaluation team shall determine the final ranking of all offers under consideration using only the criteria set forth in the solicitation document. All vendors are ranked from most advantageous to least advantageous to the State.

During the period of evaluation and prior to award, only the information provided in the tabulation is public record. Possession of offers, including any accompanying information submitted with the offers, shall be limited to persons in the agency who are responsible for processing and evaluating the offers and accompanying information. Vendor participation in the evaluation process shall not be permitted. Any communication with a vendor that may be necessary for the purpose of clarification of its offer shall be conducted by the university's Purchasing Office which issued the solicitation document. After award of the contract or when the need for the item or service is canceled, the complete file shall be available to any interested party with the exception of trade secrets subject to the rules on confidentiality. (See Section 6.2.)

If the lowest price method is used, award must be made to the responsive and responsible vendor with the lowest price, if the bid meets the specifications of the solicitation (i.e. is technically acceptable.) If the lowest priced technically acceptable method of source selection is used, only clarifications from the vendor, if requested, are allowed.

### **5.4 Criteria for Evaluation and Award**

This is a very important part of the RFP document. It defines the selection process and how offers will be evaluated and awarded. It also provides for value analysis in selecting the most advantageous proposal by considering other factors besides just price, such as past performance history, qualifications, experience, technical approach used in the proposal, etc.

In addition to any other evaluation criteria identified in the university's solicitation document, the university shall, only for purpose of evaluating any proposed or actual contract performance outside of the United States, consider the following factors:

- A. Total cost to the State and University
- B. Level of quality provided by the vendor
- C. Process capability across multiple jurisdictions
- D. Protection of the State's or university's information and intellectual property
- E. Availability of pertinent skills
- F. Ability to understand the State's or university's business requirements and internal operational culture
- G. Risk factors such as the security of the State's or university's information technology

Evaluation of these factors occurs only if a recommended award will require some part of contract performance outside the United States. The purpose of this evaluation is to determine, on balance, after assessing the particular risks posed by the work to be performed outside the United States, is the award recommendation still in the best interest of the State and the University.

NOTE 1. If financial statements will be evaluated, the solicitation document must contain and the evaluation must comply with the following: Financial information, statements and/or documents submitted with a proposal shall be evaluated to determine:

- whether the supplier has sufficient ability to perform the contract;
- whether the supplier is able to meet its short term obligations, debts, liabilities, payroll, and expenses;
- whether supplier has provided complete, reliable and accurate financial information regarding its business operation;
- whether the supplier is financially solvent; and
- whether the supplier has sufficient cash flow and/or available financing from a financial institution to perform the proposed contract for 60 days without receiving payment from the university.

NOTE 2. If references will be evaluated, the following language is to be inserted into the solicitation document, and must be followed by the evaluation team: The evaluators will randomly select at least three of the supplier's references, but the evaluators' reserve the right to contact all the references listed, if information from the three references contacted warrant further inquiry. The failure of the supplier to list all similar contracts in the specified period if required, may result in the

rejection of the supplier's proposal. The evaluators may check public sources to determine whether the supplier has listed all required contracts for similar work within the designated period. If the evaluators determine that references for other public contracts for similar contracts were not listed, the evaluators may contact those entities to make inquiry into the supplier's performance of those contracts and the information obtained may be considered in evaluating supplier's proposal. Award of a contract to one supplier does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous to the University and the State.

## 5.5 Competitive Negotiation

Negotiation offers the opportunity to change the content of an offer and pricing after opening. Negotiation is the dialogue that occurs between the University or State and a potential vendor to achieve mutually satisfactory objectives and benefits and to reconcile differences. This discussion provides the means for both parties to reach agreement on a contract's content, terms, and conditions. Competitive negotiation, properly carried out, requires skill and preparation on the part of the negotiators to achieve specific procurement objectives.

NOTE: Some examples of when you may want to consider negotiating. This is by no means all-inclusive of situations when negotiating might be appropriate.

- All bids exceed the budget amount
- None of the offers fully meet all requirements and it is determined that soliciting offers a second time would serve no purpose or advantage to the University or the State
- Best Value procedures for SITP goods and services
- Sole source quotes (for which the presumption should be that negotiation will occur)

Reference link to P&C

<http://www.doa.nc.gov/pandc/Default.aspx>

Successful negotiation is based on knowing the objective of the negotiation and deciding on the tactics to use in achieving that objective. Plans for a negotiation must be made beforehand, and they typically will include:

- What are the issues to be negotiated
- What specific outcome is desired on each issue
- What is the least acceptable outcome

- Are any issues a deal-breaker if negotiations are not successful
- What is the reason why the University is seeking the change (this should be the rationale used to persuade the vendor to agree, and it does not necessarily disclose all aspects of the University's situation or fully explain the University's motivations or needs.)

## **5.6 Negotiation Tips/Guidelines**

### **Do**

- Develop your own technique for negotiation
- Document negotiation discussion
- Be well-prepared
- Identify each point to be negotiated
- Establish parameters of discussion for each point
- Identify important issues first and consider appropriate points in time for their negotiation
- Try to settle one point before moving to the next
- Discuss budget limitations, policy and restrictions related to the program
- Be prepared to discuss alternatives
- Negotiate on an even basis. If the vendor has legal or technical support, bring your qualified counterparts
- Avoid arguments
- Avoid interruption
- Avoid quick deals
- Be ethical, fair and firm
- Control the negotiation session
- Attempt to reach a "win-win" result e.g., both parties at the conclusion of the negotiation believe they have reached a satisfactory contract

## **Do Not**

- Disclose contents of other proposals
- Negotiate areas beyond the scope of the vendors' proposal responses, except in cases of SITP best value responses
- Make a concession without obtaining a concession
- Be unreasonable or unfair
- Negotiate with multiple vendors at the same time and place
- Negotiate to the point that the price is no longer fair and reasonable

## **5.7 Negotiating with Prospective Vendors**

NOTE: All discussions and correspondence with a vendor that are relevant to the negotiation of contracts must be documented and included in the procurement file.

Negotiations are conducted with the vendors selected. Negotiation allows for the modification of proposals, including price. Offers and counter offers may be made as many times with each vendor as is necessary to secure a reasonable contract. After negotiations have been conducted with each of the selected vendors, the University and/or State selects the vendor which, in its opinion, has made the best proposal. In all cases, written confirmation shall be obtained from the vendor on any modifications of the original proposal and made a part of the contract. Formal Best and Final Offer (BAFO) documents should be used whenever possible.

## **5.8 Best Value Procurements**

The following evaluation methods may be used when appropriate:

- A. The intent of Best Value procurement is to enable contractors to offer and the university to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of the procurement. Best Value evaluation may be used for solicitations handled under NCGS Chapter 143, if P&C has an opportunity to review the evaluation prior to award.
- B. The acquisition of information technology by the University and/or State shall be conducted using the Best Value procurement method. For purposes of this section, business process reengineering, system design, and technology implementation may be combined into a single solicitation. For acquisitions that the procuring university and P&C or SITP, as applicable, deem to be highly complex or determine that the optimal solution to the business



problem at hand is not known, the use of *Solution Based Solicitation and Government Vendor Partnership* is authorized and encouraged. Any county, city, town, or subdivision of the State may acquire information technology pursuant to this section.

Reference link to Administrative Code

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-135.9>

The following information describes the process for application of the Best Value procurement methodology:

An evaluation committee evaluates offers in accordance with the stated evaluation factors. For solicitations that include a best value ranking process, scoring and ranking may be determined by using any consistent rating methodology, including adjectival, numerical, or ordinal rankings. Relative strengths, deficiencies, weaknesses, and risks supporting the evaluation shall be documented in the contract file. Evaluation factors may include but are not limited to:

- Quality factors;
- Delivery and implementation schedule;
- Maximum facilitation of data exchange and systems integration;
- Warranties, guarantees, and return policies;
- Vendor financial stability;
- Consistency of the proposed solution with the university's and state's strategic program direction;
- Effectiveness of business solution and approach;
- Industry and program experience;
- Prior record of vendor performance;
- Vendor expertise with similar projects;
- Proven development methodologies and tools; and
- Innovative use of technologies.

Clarifications, communications to establish a competitive range, or negotiations may be conducted with the vendor after receipt of offers in accordance with instructions and procedures set forth in the solicitation document and as appropriate to the method of source selection chosen. In those cases where negotiation is permitted by procedures set forth in the solicitation document, vendors may be allowed to submit best and final offers subsequent to negotiated changes in the initial offer.

- A. The evaluation committee shall determine a final ranking of all offers under consideration using only the criteria set forth in the solicitation document. All suppliers shall be ranked from most advantageous to least advantageous to the University and the State.
- B. Award must be made to the responsive and responsible supplier, whose offer is determined in writing to be the most advantageous to the university and the state, using all evaluation factors set forth in the solicitation. If the lowest price technically acceptable method is used, award must be made to the responsive and responsible vendor with the lowest price.

**5.9 Scoring Example - Numerical Rankings**

Example of Weighted - Numerical Ranking Evaluation

- 1. It shall be based on measurable and objective criteria
- 2. Weight value and scoring methodology must be spelled out in the RFP document
- 3. Evaluation shall be in writing for the public record (after award), with individual scores from each evaluation team member or consensus scores agreed to by the team as a whole.
- 4. Cost should be weighted and scored, as well as technical approach, qualifications, resources, experience, and any other criteria identified.

Example of weighted score criteria:

Technical Merit	-	600 points	(60%)
Cost Proposal	-	400 points	(40%)
Total Score	=	1,000 points	(100%)

Example using weighted value of 60% Technical - 40% Cost

Low bid	-	\$45,200	= 400 points awarded	maximum points allowed
2nd low bid	-	\$53,400	$\$45,200 / \$53,400 = 0.85;$	$0.85 \times 400 = 340$ points
3rd low bid	-	\$58,100	$\$45,200 / \$58,100 = 0.78;$	$0.78 \times 400 = 312$ points

**5.10 Award Recommendation**

Once evaluation and negotiations have been completed with the selected vendor(s), the university Purchasing Office must prepare a written narrative summarizing the rationale for the selected offer as well as the reasons for non-selection of offers. The summary shall address the merits of the offer relative to the solicitation document and address positive or negative

attributes as well as weak or non-supportive factors. When numerical points and/or percentages are used in the solicitation document, numerical and/or percentage criteria must be used in the evaluation exactly as noted in the solicitation document. Often each criterion is weighted, giving certain areas of the criteria more value relative to the award determination. Be sure that the final scores correctly reflect that weighting. Contractors may inspect the proposal records after evaluation and negotiations are complete.

### **5.11 Procedure for Two-Step Competitive Sealed Bidding**

The process for two-step competitive sealed bidding is the same as one- step, but with the following differences noted in this manual.

Under a two-step process, the cost proposal(s) are not opened and do not become public record until the technical offer(s) has been evaluated (first step), and then only for those bidders determined by the agency that issued the solicitation document to have an acceptable technical offer (second step). Cost proposals from those bidders whose technical proposals have been deemed acceptable shall be publicly opened, with those bidders that have submitted acceptable technical offer(s) notified of the time and place for the opening. At least a two (2) university-working-day notice shall be given prior to the opening. In addition, there shall be at least two employees present at the opening.

The cost proposals from bidders whose technical offers were deemed unacceptable shall remain unopened.

The names of all bidders are to be tabulated upon opening the technical proposals. The bid price of those proposals deemed to be technically acceptable shall be tabulated upon completing the cost proposals.

One original and at least two (this number can be changed to meet a university's specific need) copies will be received from each bidder, in two separate sealed packages - the Technical Proposal and the Cost Proposal. Each original shall be signed and dated by an official authorized to bind the firm. Unsigned proposals cannot be considered. Both the technical proposal and cost proposal must be received by the bid deadline in order to be considered.

NOTE: No technical information shall be contained in the cost proposal and no cost information shall be contained in the technical proposal. If any cost information is included in the technical proposal and/or if any technical information is included in the cost proposal, the bidder's entire proposal may be rejected, if the solicitation document provides notice of this action.

At their option, the evaluators may request oral presentations or discussion with any or all bidders for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, bidders are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the bidder.

## **5.12 Posting Bid Tabulations**

Bid tabulations for two step proposals cannot be posted to IPS without inserting a dollar amount. This amount can be as little as one penny, or one dollar. A statement should be placed in the comment section advising that the amount is only a place-holder, and it will be replaced with the actual bid amount once the cost proposals are opened.

If the amounts bid are not adaptable to being summarized, or if a summary would be misleading, a manual tabulation must be prepared and made available on request, and notice of this availability must be inserted in the comment section of the IPS tabulation.

## **5.13 Tie Bids**

After evaluation of any competitive solicitation, which results in no relevant price or non-price evaluation factor having been useful to identify a preferred bid among two or more bidders (i.e., a “tie” bid), the following order of preference shall be applied to select the successful bidder:

1. If only one such bid is submitted by a North Carolina resident bidder, then preference shall be given to the bid of the State resident;
2. If more than one bid is submitted by a North Carolina resident bidder, and only one of those bidders is a North Carolina HUB-certified bidder, then preference shall be given to the North Carolina HUB-certified bidder; and
3. In all other cases, the tie will be resolved by tossing a coin. The coin toss process must be witnessed, and the results documented in the procurement file, by a manager or other higher-ranking administrator to the Purchaser performing the toss.

Remember, no factor or criteria may be considered “relevant” unless it is identified in the solicitation document as an element that will be used in the evaluation process.

## **5.14 Partial and Multiple Awards**

Unless the solicitation document provides otherwise, partial, progressive, or multiple awards may be made by reason of insufficient funds, legislative mandates, where it is advantageous to award separately by items or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service(s) or geographical areas.

Notwithstanding the necessity for awards to more than one supplier in the case of some term contracts, such awards shall be limited to the number of suppliers deemed necessary to reasonably satisfy the intended requirements. Extreme care shall be exercised to protect the character and principals of competition.

Quantities shall not be divided among vendors on definite quantity requirements unless and except as provided in the solicitation document.

## **5.15 Board of Award**

### **A. P&C**

Purchase and Contract shall present to the Board of Award a recommendation (award, cancelation or other action) for the following procurement circumstances for their review and approval:

1. Contract awards exceeding the university benchmark.
2. Contracts resulting from emergency purchases authorized by the State Purchasing Officer or designee are to be presented to the Board of Award as a matter of record.
3. Vendor default of contract (explanation of the circumstances and default action recommended).
4. Request to cancel the bid (explanation of the reason for the cancelation).
5. Any contract extensions when not noted on the board sheet for the initial award.
6. Supporting documentation such as descriptive literature should be available for Board of Award review and distribution if needed or board request.

When the known value of the proposed contract is less than the established benchmark, the purchaser may award the contract or proceed with other appropriate actions, without further approval.

### **B. SITP (Statewide Information Technology)**

When the dollar value of a contract for goods exceeds the \$100,000 benchmark, the procurement action (award) will be reviewed by the Board of Award.

During the Board meeting, the Board will review the proposed procurement action and either concur with the recommendation or reject it. If the procurement action is for a contract award, the Board or the State SCIO must concur with the recommended vendor selection prior to SITP issuing a Certificate of Award to the agency. The Board will take appropriate actions to clarify the procurement action or recommend an action different from the action in the submitted request. If the Board rejects the recommendation, the SCIO may override the Board's decision.

In emergency situations or in the event that the Board is not available, the SCIO may proceed with an award of a contract without the Board's recommendation. In those cases, the award will be reported to the Board as a matter of record.

## **5.16 Notification of Award**

After contracts are awarded, successful companies must be notified in writing or electronically. If the solicitation was advertised on the Interactive Purchasing System (IPS), then an award notice must be posted.

## **5.17 Posting Award**

The awarding of contracts under the university's delegation shall be the responsibility of the using agency. If the procurement is over the university's delegation and the solicitation was posted by either SITP or P&C, that office will post any award information.

Award notification shall be posted to IPS within 3 days from award of a solicitation or within one day after execution of the contract, whichever is later. This award notice shall identify the contract and award information including vendor(s) and costs. If an award is not posted within this time period, the 30-day limit for filing a protest will begin on the date the award actually is posted.

## **5.18 Cancellation**

If any procurement is canceled after being posted, a cancellation notice shall be posted to IPS.

## **Section 6 – Post Award**

### **6.1 Notices to Vendor**

The award notice to a vendor is made by means of a Contract Certification memo for purchases that exceed the university's delegation. If a recommendation for purchase is required for any other reason, then upon notification of approval from P&C, the university is to create a purchase order and issue it to the supplier.

### **6.2 Confidential Information**

All information and documentation relative to the development of a contractual document (Request for Quotes, Request for Proposals, Waiver of Competition, Negotiation, etc.) for a proposed procurement or contract shall be deemed confidential in nature, except as deemed necessary by the purchaser to develop a complete contractual document. Such material shall remain confidential until the award of a contract or until the need for the procurement no longer exists.

This confidentiality requirement includes all information and documentation relative to the development of a specification until the adoption of that specification or an award of contract, if developed for a specific procurement or contract, whichever is later.

During the period of evaluating offers and prior to award, only the information provided in the tabulation is considered a public record. Possession of and information about specific offers, including any accompanying information submitted with the offers, shall be limited to persons

in the university who are responsible for handling the offers and accompanying information, and to others determined necessary by the university that issued the solicitation document for the purpose of evaluation and award of contract. Offeror participation in the evaluation process shall not be permitted. Any communication with an offeror that may be necessary for the purpose of clarification of its offer shall be initiated and conducted by the university which issued the solicitation document. After award of the contract, or when the need for the item or service is canceled, the complete file shall be available to any interested party on making a public records request with the exception of trade secrets, subject to compliance with the following rule:

To promote maximum competition and to protect the public competitive procedure from being used to obtain information which would normally not be available otherwise, universities may maintain the confidentiality of certain types of information. Such information includes trade secrets, as determined by North Carolina law, and like information as the SPO or the university's executive officer or the officer's designee (university's General Counsel) may determine to ensure the integrity of the public purchasing process. Trade secrets which the offeror does not wish disclosed shall be identified as follows:

1. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL".
2. Cost information shall not be deemed confidential.

NOTE: Confidential information includes Federal ID information and section number 2 of part II of Executive Order No. 50 if requested by the supplier.

### **6.3 Requisition Approval (If Required)**

Upon award of the contract, the university Purchasing Office will approve the purchase requisition so the university's e-procurement system (Bulldog Buyway) can generate a purchase order.

### **6.4 Receiving**

Receiving is the act of taking into possession and inspecting goods for acceptance based on the specifications required within the purchasing document. Delivery of goods and subsequent receipt is when the risk of loss or damage to the goods passes from the seller to the University/State. Goods must be inspected at the time of receipt, if possible. If all the specifications of the order are met and no damages are found, the item is received (if it is a partial shipment, make sure that fact is documented.) All packing slips and any necessary paper work are submitted to the proper division so the invoice can be paid. When damages or discrepancies are discovered, the vendor is to be immediately notified with specific information of the discrepancy.

NOTE: In the Bulldog Buyway e-procurement system, a Quantity Receipt should be created and completed if the order is received based upon specifications of the order without any damages. If a partial shipment is received or damages are noted, the Quantity Receipt provides the opportunity to note this situation within the Quantity Receipt.

## **6.5 Inspection and Testing**

In general, it is the responsibility of the university department placing the order to inspect all materials, supplies, and equipment upon delivery to ensure compliance with the contract requirements and specifications. However, when the contract requires an inspection by P&C or SITP, it shall be conducted by a designee of P&C or SITP.

NOTE: The inspection function has been delegated by P&C to the UNC System based upon the completion of criteria for conducting this inspections. At the time of this manual, the UNC General Administration is working on the creation of the inspection criteria but it has not been approved for use at this time. Therefore, Quality Inspections are done through P&C and SITP and are coordinated by the Senior Buyer in the university Purchasing Office. Per NCAC 05B .0901, when the contract requires an inspection by the Division of Purchase & Contract, it shall be conducted by a designee of the Division. Also reference § 143-60 (3).

P&C or SITP may re-inspect any item or services performed and reverse the university's decision when justified. P&C or SITP may periodically inspect any items to ensure that specifications are met. The university must ensure that items and services purchased comply with applicable codes, statutes, local ordinances, policies or safety requirements. Where products delivered fail to meet the specifications or contract requirements, the discrepancy shall be handled by the agency that awarded the contract.

When samples are required in response to a solicitation document issued by P&C or SITP, then P&C or SITP will review those samples and test as appropriate. Samples shall not be sent directly to laboratories outside P&C or SITP or the university unless authorized in writing by P&C or SITP.

After an inspection and when it is determined to be advantageous, the agency that awarded the contract may authorize revisions to a contract specification, including any cost adjustment associated with any such revision, as part of contract administration. If an increase in cost results in the total contract value being more than the university's delegation, then prior approval from P&C or SITP is required.

For information on inspection by a P&C or SITP Quality Acceptance Representative, visit <http://www.doa.nc.gov/pandc/QAInspections.aspx>

This list identifies only those items that routinely need an acceptance inspection by the Quality Acceptance Representative PRIOR to release of final payment. Inspection by a Quality Acceptance Representative shall be mandatory when the item costs \$10,000 .00 or more, except as noted.



Where applicable, purchasers shall include a statement calling for an inspection by a Quality Acceptance Representative in the Invitation for Bids (or Request for Quote), and furnish a copy of the IFB (or RFQ) to P&C. Also, furnish P&C with a copy of the *Contract Certification* at the time of distribution.

### **6.6 Damaged Goods**

Some goods may be received without damages being obvious. The damage may not be discovered until packaging is opened, the item is installed or equipment is put into service. As soon as damage is discovered, the vendor and the purchaser are to be notified. When notified of damaged goods received, the purchasing agent must determine, based on the freight terms specified in the purchase order, where the subsequent claim is to be filed. Damaged goods may create delays with the agency process and subsequently vendors should be notified of any potential impacts the agency may incur due to the damaged goods.

### **6.7 Inaccurate Orders**

When a discrepancy in part number(s), and/or products exists, the vendor should be notified immediately to resolve the inaccuracy of the order. The purchasing agent must ensure the inaccuracy does not create an issue when associated with a competitive bid whereas liquidated damages may apply. Based on the contract specifications, inaccurate orders may place the vendor in default. Either way, inaccurate orders often create inaccurate invoices that compound the problem and ultimately require a meeting between the purchasing agent and the vendor to discuss vendor performance.

### **6.8 Inaccurate Quantities**

When a shipment is received and there is a discrepancy in quantity, the receiving department should notify the purchasing agent of the discrepancy and the type of discrepancy. Discrepancies may exist such as shipping too many or too few items, shipping the wrong part number or wrong manufacturer part, shipping a case quantity versus the actual amount ordered. The purchasing agent should contact the vendor to resolve the quantity discrepancy and when applicable obtain credit, or the goods shorted for short shipments. When there is a case quantity shipment required, the buyer should make a note of this for future reference when ordering this same item.

### **6.9 Late Shipment**

When the shipment is made in relation to a competitive bid issuance, the purchasing agent should determine whether liquidated damages may apply. Late shipments should be tracked and when there are multiple occurrences of late shipments from the same vendor, discussions concerning vendor performance should be conducted between the purchasing agent and the vendor to determine why performance is lacking and how the supplier plans to improve should they be awarded future orders. Multiple late shipments should be documented by sending the vendor a *Vendor Complaint form*, so further action may be taken, if needed.

## 6.10 File Closeout Checklist

It is the responsibility of each University Contract Administrator to ensure that the work under the purchase agreement/contract has been completed and the agreement is ready for Closeout prior to final payment. This checklist can serve as a tool to assist the Contract Administrator during that process. The Closeout file should contain all necessary documentation relative to the agreement at the time of Closeout. Final payment shall never be made until all work is complete and all deliverables are received and accepted.

The purpose is to verify that both parties to the contract have fulfilled their contractual obligations and there are no responsibilities remaining. In addition, contract Closeout is the time to assess the success of the contract and determine if there are any lessons learned for future contracting.

Please remember that Federal ID Numbers and Social Security Numbers are not public information and should be destroyed, made confidential, or redacted from the file.

To initiate the Closeout process, the department should first determine that the Contractor has satisfactorily performed all required contractual obligations.

A contract is ready for Closeout when:

- A. All deliverables, including reports, have been delivered and accepted by the agency. Contract administrators should compare actual performance against performance measures, goals and objectives to determine whether all required work has been completed;
- B. All monitoring issues have been resolved;
- C. All property inventory and ownership issues are resolved including disposition of any equipment or licenses purchased under the contract;
- D. Final acceptance from the Project Manager has been received (if applicable);
- E. Contractor is aware of and in compliance with records retention requirements and a plan has been developed for contract file maintenance;
- F. Any deficiencies found as part of the Closeout process are documented and communicated to all appropriate parties; and
- G. Final payment has been made.

In practice, many contracts cannot be closed out after the date the above items are all completed, because the warranty period is effective well beyond such date. Therefore, the contractor may not have “satisfactorily performed all required contractual obligations” until the end of the warranty period. Furthermore, sometimes even at that point the contract cannot be fully closed out, because it may, for example, require the contractor to “have repair parts available for years after contract award.”

It is recommended that departments have a Closeout process for contracts that allow sufficient time to finalize Closeout procedures including completion of all final obligations and issuance of payments. Good contract management and administrative procedures require that contracts be closed out and filed, not open or unresolved for an extended amount of time beyond the expiration date.

Reference link to P&C

<http://www.pandc.nc.gov/divforms.aspx#F>

## **Section 7 – Procedures and Records**

### **7.1 Procurement File Maintenance**

A procurement file should be created for each procurement (equipment, goods or services) transaction. Each file should contain all documents relative to the procurement of equipment, goods or services. Documents that should be included, but not limited to:

- A. Original offers, written or verbal. If written it should be on the suppliers letterhead or quote form. If verbal, the purchasing agent should create a record showing each suppliers contact information, price quoted, delivery and other pertinent information pertaining to the quote;
- B. Written, dated and signed justification for award (sole source, competitive, waiver, emergency, pressing need, etc.) or cancelation; including worksheets, evaluations, tabulations (if applicable) and any related correspondence. Also include any written documentation related to negotiations as applicable. If equipment is inspected by P&C, a copy of the inspection report should be included within the file; and,
- C. A copy of requisition and purchase order(s), terms and conditions, and freight bills.

After award of contract, all material in the file, except known confidential information or material marked confidential shall become public record.

See P&C Admin code 5B.1901 & 1903

[Link to P&C Admin Code](#)

Procurement files must be retained in accordance with the approved Records Retention Schedule for the university.

## 7.2 Public Records

All purchasing records shall be maintained in accordance with university policy after the expiration date of the contract. Each file shall be identified individually so it can be readily located and referenced.

All purchase transactions shall be documented with each file containing, as applicable, the following:

- A. Original offers if in writing, or written documentation of verbal offers received;
- B. Reasons for award or cancelation;
- C. Worksheets/evaluations;
- D. Vendor list, if used;
- E. Written justification for waiver or emergency purchase; (dated email or signed memo from the SPO, or SITP agency purchasing officer);
- F. Tabulation of offers received;
- G. Copy of purchase order(s);
- H. Related correspondence;
- I. Reason(s) for receiving only one offer in response to a solicitation;
- J. Negotiated contracts; and
- K. Reasons for not accepting technical proposals.

After award of contract, the purchasing agent is responsible for reviewing and redacting any information marked confidential by the vendor prior to making the record public.

All information and documentation relative to the development of a contractual document (Request for Quotes, Request for Proposals, Waiver of Competition, Negotiation, etc.) for a proposed procurement or contract shall be deemed confidential in nature, except as deemed necessary by the purchaser to develop a complete contractual document. Such material shall remain confidential until the award of the contract.

This includes all information and documentation relative to the development of a specification until the adoption of that specification or an award of contract if developed for a specific procurement or contract, whichever is later.

During the period of evaluating offers and prior to award, only the information provided in the tabulation is public record. Possession of offers, including any accompanying information submitted with the offers, shall be limited to persons in the university who are responsible for handling the offers and accompanying information, and to others determined necessary by

the university which issued the solicitation document, for the purpose of evaluation and award of contract.

### **7.3 Public Records Requests**

The public may request to see an awarded or canceled procurement. This is formally called a public records request.

- A. "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.
- B. The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

The State is required to make available the procurement files as public records, however there are general procedures to follow concerning this request:

- A. The public must schedule an appointment to view the files during normal working hours
- B. All documents marked "Confidential" must be removed from the file prior to public viewing
- C. Pricing or total cost awarded is always public record and cannot be designated as "Confidential," ever.
- D. A minimal cost should be charged for use of the State's paper, toner and equipment. This charge cannot be more than the actual cost to copy the records. Normally, the charge cannot include employee time.
- E. If a request is canceled and it is anticipated to be rebid in the near future, then the canceled file shall remain confidential until after an award is made.

## 7.4 Redacted Information

Dollar amounts awarded to specific vendors are available in IPS and are public information. Vendor complaint records are also public; requests for copies will be handled in the same way as copies from procurement files.

### Redacting Documents

Each purchaser is responsible for making sure the following process is followed when redacting documents:

- A. Make 1 copy of the original document;
- B. React the protected information on the copy by using a permanent black marker; or remove the entire page from the file, if appropriate
- C. Copy the redacted copy (to ensure that the blacked out data cannot be “read” through the marking) and put that copy in the procurement file for inspection, and
- D. Place the original in a separate file, marked “Confidential,” and file with the bid file number on the cover, and with the procurement file.

The public should not be permitted in the file storage room or be allowed to view any files without a university representative present.

The most common information that may have to be redacted in a procurement file is:

- social security numbers,
- federal taxpayer identification numbers,
- information marked confidential, and
- all financial documents that are submitted by a vendor.

Information requested in the procurement solicitation must also be reviewed for the foregoing numbers as well as banking, accounting information and/or such other identifying information that, if disclosed, may cause financial harm to the vendor.

See P&C [Administrative Code](#), 5B.0103

## 7.5 Record Retention

Except where State law provides to the contrary, after the award of a contract, the purchasing records of the university are public documents, and these documents shall be maintained for a period of five (5) years after the expiration date of the contract. Each file shall be identified individually so it can be readily located and referenced either through hard copy files.

It is recommended that the contract for capital equipment purchases and for goods that may have a useful life or warranty exceeding five years, be retained by the university for that time period.

## **Section 8 – Protests and Vendor Disputes**

### **8.1 Protest Procedures (P&C)**

To ensure fairness to all vendors and to promote open competition, agencies and the Division of Purchase and Contract shall actively follow-up and be consistent in responding to a vendor's protest concerning contract awards.

- A. P&C's protest rules apply to contracts with an actual or estimated dollar value over ten thousand dollars (\$10,000.) It is recommended that agencies establish procedures to handle a vendor's concerns for contracts with a dollar value below this amount. Protests of contracts between \$10,000 and the university's delegation are handled by the university pursuant to the Administrative Code. Protest procedures are detailed in each of the state's standard solicitation templates, which can be found at <http://www.pandc.nc.gov/divforms.aspx#C>.
- B. When a vendor wants to protest a contract awarded by the Secretary of Administration valued at over ten thousand dollars (\$10,000), or a contract awarded by a department (excluding the universities) valued at twenty-five thousand dollars or more, the department and the vendor shall comply with the following:

The vendor shall submit to the SPO a written request for a protest meeting which shall be received by P&C within 30 consecutive calendar days from the date of the contract award. The vendor's letter shall contain specific reasons and any supporting documentation for the reasons, describing why they have a concern with the award. If the letter does not contain this information, or if the SPO determines that a meeting would serve no useful purpose, then the SPO may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the vendor and refuse the protest meeting request. Otherwise, the SPO must notify the protesting vendor within the 10-day period that a protest meeting will be scheduled.

If the protest meeting is granted, the SPO shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the SPO shall respond to the vendor in writing with the decision.

- C. When a vendor wants to protest a contract awarded by a university valued at more than ten thousand dollars (\$10,000), but less than the applicable

delegation or benchmark, the university and the vendor shall comply with the following:

1. The vendor shall submit a written request for a protest meeting to the university's executive officer which shall be received by the executive officer within 30 consecutive calendar days from the date of the contract award. The executive officer shall furnish a copy of this letter to the SPO within 5 consecutive calendar days of receipt. The vendor's letter shall contain specific reasons and any supporting documentation for why they have a concern with the award. If the letter does not contain this information, or if the executive officer determines that a meeting would serve no purpose, then the executive officer may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the vendor and refuse the protest meeting request. A copy of the executive officer's letter shall be forwarded to the SPO. Otherwise, within the 10-day period, the officer must notify the vendor that a meeting will be held.
2. If the protest meeting is granted, the executive officer shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the executive officer shall respond to the vendor in writing with the decision. A copy of the executive officer's letter shall be forwarded to the SPO.
3. The university shall notify the SPO, in writing, of any further administrative or judicial review of the contract award.

The executive officer may appoint a designee to act on the officer's behalf under this rule.

PROTEST PROCEDURES			
Purchasing Entity	Award Amount	Awarded By	Protest Handled By
University	< \$50,000	University	University
University	> \$50,000	P&C	P&C

- The above table applies to the entity listed for commodities (goods).
- The above table also applies to the entity listed, except those exempted by statute and rules, for services.



## **8.2 Protest Procedures (SITP)**

This procedure provides overview instructions for the vendors, agencies, and SITP on processing award protest.

- A. For protest meeting requests, the vendor must prepare a written request that includes specific reasons and any supporting documentation regarding the concern with the award. The initial request must be submitted and received within 15 calendar days of the contract award.
- B. If the vendor still feels aggrieved following SITP's or the university's protest decision, the vendor may request an administrative hearing. If the vendor is not satisfied with the SITP/university decision following the protest meeting, the vendor prepares and submits the administrative hearing request as stated above, and SITP procedure; Administrative Hearing Procedures.

### **Agency Protest Procedures**

This procedure is used when a vendor wants to request a protest meeting regarding an award of a contract valued over \$25,000 where the university issued the contract. The university must keep SITP informed of these protests. The procedure provides instructions for the vendors, the university and SITP on processing an SITP award protest when it is the vendor's first protest submission for the contract.

- A. Upon receipt of the protest meeting request, the university's Executive Officer or designee will provide a copy of the written request to the SITP Chief Procurement Officer (CPO) as soon as possible. The university's Executive Officer or a designee will review the request. If the request was not received within 15 days of the contract award, does not include specific reasons of concern, or if the Executive Officer determines that a meeting would not serve any useful purpose, the Executive Office or designee may refuse the protest meeting request. Whether the meeting is granted or refused, the Executive Officer or designee must respond in writing to the protesting vendor within 10 calendar days from the date of receipt. The university must also send a copy of the refusal letter to the SITP CPO.
- B. If the university's Executive Officer/designee grants a protest meeting, the Executive Officer/designee must make all attempts to schedule a meeting with the protesting vendor within 30 days from the receipt of the meeting request letter. If unable to schedule a meeting within 30 days, the meeting must be scheduled as soon as possible after that. The university will meet with the vendor on the scheduled day to collect information regarding the vendor's concern with the award. Within 10 days of the protest meeting, the university's Executive Officer or designee must respond to the protesting vendor in writing of the university's decision. A copy of the decision letter is also sent to the SITP CPO. If the vendor challenges the decision or requests further action regarding the protest, the

university's Executive Officer will advise the SITP CPO. The vendor may request a final decision from the State CIO through the Administrative Hearing procedures.

### **Protest Procedures for SITP-Issued Contracts**

This procedure will be used when a vendor wants to protest an SITP award valued over \$25,000 where SITP issued the contract. This procedure provides instructions for the vendors, the university, and SITP on processing an SITP award protest. It is used when SITP issued the contract and it's the vendor's first submission for the contract.

The CPO will review the request. If the request was not received within 15 days of contract award, does not include specific reasons of concern, or if the CPO determines that a meeting would not serve any useful purpose, the CPO may refuse the protest meeting request.

If the meeting is refused, the CPO must respond in writing to the protesting vendor within 10 calendar days from the date of receipt of the protest. The CPO must also send a copy of the refusal letter to the SITP hearing officer. If the CPO grants a protest meeting, the CPO must make all attempts to schedule a meeting with the protesting vendor within 30 days from the receipt of the meeting request letter. If unable to schedule a meeting within 30 days, it must be scheduled as soon as possible after that. The CPO will meet with the vendor on the scheduled day to collect information regarding the vendor's concern with the SITP award. Within 10 days of the protest meeting, the CPO must respond to the protesting vendor in writing of SITP's decision. A copy of the decision letter is also sent to the SITP hearing officer. If the vendor is not satisfied with the SITP's decision, the vendor may elevate the protest to an administrative hearing level within 60 days.

Link to Statewide Information Technology Procurement (SITP) resources

<https://it.nc.gov/resources/it-strategic-sourcing><https://it.nc.gov/resources/it-strategic-sourcing>

### **8.3 Vendor Complaint Process**

A centralized agency complaint process has been set up within P&C to handle problems that arise between agencies and vendors. When a problem arises with a vendor, whether it is late delivery or incorrect commodities shipped, etc., the agency's first step should be to contact the vendor directly in an effort to resolve the problem. Written communication or confirmation of verbal contact is highly recommended. If the problem is not resolved satisfactorily within a reasonable time period, or it becomes a recurring problem, then this problem should be formalized on a *Vendor Complaint* form and sent to the vendor and P&C.

Once this information is received by P&C, it will be logged into the system and directed to the appropriate purchasing group. A purchaser will then work with the vendor and the agency to resolve the complaint and to urge the vendor to make a formal response to the complaint, if appropriate. P&C will contact the purchaser at the agency for additional information or to report progress in resolving the complaint. The information obtained from the vendor

complaint system is used to determine whether or not a vendor is performing responsibly. This information may be used to recommend that a vendor(s) not be permitted to do business with the State. Information on the performance of a specific vendor may also be requested by agencies in making procurement decisions. P&C must have this information in writing and on file. Therefore, it is important that this tool be used, and used correctly. If there are questions concerning complaints against vendors, please contact P&C.

## **Section 9 – Miscellaneous**

### **9.1 E-Procurement Training Information**

The university has been exempted for using the NC E-Procurement System. Therefore, E-Procurement training through P&C is not applicable to the university. However, P&C does offer other training classes for university purchasing staff and departmental users which cover a variety of topics. The classes are free but registration is required. See the website link below for P&C's training opportunities.

The university does provide training and assistance with the university's e-procurement system (Bulldog Buyway.) Departmental users may contact the Purchasing Office at 828-232-2285 for training or assistance.

Reference link to P&C's Training  
<http://eprocurement.nc.gov/Training.html>

### **9.2 Electronic Signatures**

Your department is likely to be affected, at least when planning, by three laws bearing on electronic signature: The NC Electronic Commerce Act, the North Carolina Uniform Electronic Transactions Act and the Federal Electronic Signatures in Global and National Commerce Act. A look at some characteristics of these laws may be useful.

The law is enabling in the sense that North Carolina agencies and governments, whether or not they possess other authority to use electronic signatures, can use electronic signatures if they comply with the Electronic Commerce Act and the implementing rules.

The Secretary of State, through the Electronic Commerce Act and implementing rules, facilitates department electronic signing. The NC Electronic Commerce Act does not apply to transactions between private parties. Business-to-business, private-to-private and similar transactions, where public agencies are not parties, are not affected by the Act or implementing rules. Generally speaking, the Federal "Electronic Signatures in Global and National Commerce" Act ("E-Sign") (15 USC 7020) allows private parties to decide how electronic signatures affect their business processes. North Carolina agencies turn to the North Carolina General Statutes for authority; e-Sign gives states, as marketplace participants, authority to define their electronic signature behavior.

North Carolina does not accept electronic bidding at present but P&C looks forward to being able to implement electronic bidding and record storage, soon.

Reference link to NC Secretary of State

<http://www.secretary.state.nc.us/Ecomm/ElectronicSignatures.aspx>

Reference Used: The North Carolina Procurement Manual was edited to reflect the procedures used at UNC Asheville. Section 10 and 11 below were copied directly from the North Carolina Procurement Manual.

## **Section 10 Procurement Authority and Responsibility**

### **10.1 North Carolina Administrative Code, North Carolina General Statutes and Executive Orders Affecting Procurement**

### **10.2 North Carolina General Statute Chapter 143-48 Article 3**

#### **Article 3. Purchases and Contracts**

§ 143-48. State policy; cooperation in promoting the use of small contractors, minority contractors, physically handicapped contractors, and women contractors; purpose; required annual reports.

- (a) Policy – It is the policy of this State to encourage and promote the use of small contractors, minority contractors, physically handicapped contractors, and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small contractors, minority contractors, physically handicapped contractors, and women contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration .
- (b) Reporting – Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services, every local school administrative unit, and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars (\$500,000) or more during a fiscal year from the General Assembly shall report to the department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open market contracts, were from minority owned businesses, what percentage from female owned businesses, what percentage from disabled owned businesses, what percentage from disabled business enterprises and what percentage from nonprofit work centers for the blind and the severely disabled . The same

governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

(1) Except as provided in subdivision (1a) of this subsection, a business in one of the categories above means one:

- a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and
- b. Of which the management and daily business operations are controlled by one or more persons in the category who own it.

(1a) A “disabled business enterprise” means a nonprofit entity whose main purpose is to provide ongoing habilitation, rehabilitation, independent living, and competitive employment for persons who are handicapped through supported employment sites or business operated to provide training and employment and competitive wages.

(1b) A “nonprofit work center for the blind and the severely disabled” means an agency:

- c. Organized under the laws of the United States or this State, operated in the interest of the blind and the severely disabled, the net income of which agency does not inure in whole or in part to the benefit of any shareholder or other individual;
- d. In compliance with any applicable health and safety standard prescribed by the United States Secretary of Labor; and
- e. In the production of all commodities or provision of services, employs during the current fiscal year severely handicapped individuals for (i) a minimum of seventy-five percent (75%) of the hours of direct labor required for the production of commodities or provision of services, or (ii) in accordance with the percentage of direct labor required under the terms and conditions of Public Law 92.28 (41 U.S.C. 46, et seq.) for the production of commodities or provision of services, whichever is less.

(2) A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143.128(2) a. through d.

(3) A disabled person means a person with a handicapping condition as defined in G.S. 168.1 or G.S. 168A.3.

## **R.1.2 North Carolina General Statute Chapter 147 Article 3D**

### **Article 3D State Information Technology Services**

#### **§ 147-33.72A Purpose.**

The purposes of this Article are to:

- (1) Establish a systematic process for planning and financing the State's information technology resources.
- (2) Develop standards and accountability measures for information technology projects, including criteria for adequate project management.
- (3) Implement procurement procedures that will result in cost savings on information technology purchases.

#### **10.2 Procurement Procedures**

Statewide Information Technology Procurement shall establish procedures for the procurement of information technology. The procedures may include aggregation of hardware purchases, the use of formal bid procedures, restrictions on supplemental staffing, enterprise software licensing, hosting, and multiyear maintenance agreements. The procedures may require agencies to submit information technology procurement requests to the Office of Information Technology Services at specific times of the year.

#### **10.3 General Powers and Duties**

Article 3D shall not apply to the General Assembly, the Judicial Department, or The University of North Carolina system and its constituent institutions . However these agencies may elect to participate in the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office.

#### **10.4 Functions of the Statewide Information Technology Procurement**

In addition to any other functions required by this Article, Statewide Information Technology Procurement shall:

- (1) Procure all information technology for State agencies.

- (2) Submit for approval of the Office of State Budget and Management all rates and fees for common, shared State government wide technology services provided by the Office on a fee for service basis and not covered by another fund.
- (3) Conduct an annual assessment of State agencies for compliance with statewide policies for information technology.
- (4) Develop standards, procedures, and processes to implement policies approved by the State CIO.
- (5) Review State agency management of State information technology resources for compliance with this Article.
- (6) Review State agency implementation of statewide information technology management efforts of State government for compliance with this Article.
- (7) Develop a project management, quality assurance, and architectural review process for projects that require review and approval.
- (8) Notwithstanding any other provision of law, local governmental entities may use the information technology programs, services, or contracts offered by the Office Information Technology Services, including information technology procurement, in accordance with the statutes, policies, and rules of the Office. For purposes of this subsection, "local governmental entities" includes local school administrative units, and community colleges. Local governmental entities are not required to comply with otherwise applicable competitive bidding requirements when using contracts established by the Office Information Technology Services.

[Link to IT Procurement Forms & Templates](#)

#### **10.5 Procurement of Information Technology**

- (1) Notwithstanding any other provision of law, the Office of Information Technology Services shall procure all information technology for State agencies. The Office shall integrate technological review, cost analysis, and procurement for all information technology needs of those State agencies in order to make procurement and implementation of technology more responsive, efficient, and cost effective. All contract information shall be made a matter of public record after the award of contract. Trade secrets, test data, similar proprietary information, and security information may remain confidential.
- (2) The Office shall have the authority and responsibility to:

- (3) Purchase or contract for all information technology in the State government, or any of its departments, institutions, or agencies covered by this Part. The Office may authorize any State agency covered to purchase or contract for information technology. The Office or a State agency may use any authorized means, including negotiations, reverse auctions, and the solicitation, offer, and acceptance of electronic bids.
- (4) Establish processes, specifications, and standards that shall apply to all information technology to be purchased, licensed, or leased in the State government or any of its departments, institutions, or agencies.
- (5) Establish procedures to permit State agencies and local government agencies to use the General Services Administration (GSA) Cooperative Purchasing Program to purchase information technology.
- (6) Comply with the State government wide technical architecture, as required by the State CIO.
- (c) For purposes of this section, “reverse auction” means a real time purchasing process in which vendors compete to provide goods or services at the lowest selling price in an open and interactive electronic environment. The vendor’s price may be revealed during the reverse auction. The Office may contract with a third party vendor to conduct the reverse auction.
- (d) For purposes of this section, “electronic bidding” means the electronic solicitation and receipt of offers to contract. Offers may be accepted and contracts may be entered by use of electronic bidding.
- (e) The Office may use the electronic procurement system to conduct reverse auctions and electronic bidding. All requirements relating to formal and competitive bids, including advertisement, seal, and signature, are satisfied when a procurement is conducted or a contract is entered in compliance with the reverse auction or electronic bidding requirements established by the Office.
- (f) The Office shall adopt rules consistent with this section.

**[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/  
Chapter\\_147/GS\\_147-33.72A.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_147/GS_147-33.72A.html)**



## **Section 11 Community College Exceptions**

Community colleges are required by General Statute 115D-58 .5 to purchase all supplies, equipment and materials by contracts made by or with the approval of the Division of Purchase and Contract of the Department of Administration.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115D-58.5>

## **Section 11 Historically Underutilized Business (HUB)**

The North Carolina Department of Administration's Office for Historically Underutilized Business (HUB Office) is committed to striving to reduce barriers to Historically Underutilized Business (HUB) participation in contracts for goods and services acquired by state agencies, community colleges, municipalities, institutions, public schools and universities. The Office for Historically Underutilized Business certifies firms under North Carolina General Statutes 143-48.4 and 143-128.4.

It is the mission of the HUB Office to promote economic opportunities for historically Underutilized Business in State government contracting and procurement that will foster their growth and profitability.

The HUB Office staff is available to assist firms with becoming certified as a historically underutilized business. In addition, the HUB Office provides outreach, training and networking opportunities for new and established HUB firms. This website provides access to program and core services, HUB vendor/firm database, upcoming bids with various agencies and public entities, HUB Annual Reports, HUBSCO Construction Reporting System, the latest news and calendar information for training and conference sessions.

### **11.1 Programs/Core Services**

The HUB Office consists of five core service areas that provide expanded opportunities for HUB firms:

- (1) Certification/Statewide Uniform Certification (SWUC),
- (2) Outreach,
- (3) Training,
- (4) Program Compliance and
- (5) Construction Outreach

In implementing programs and services around these five core areas, the HUB Office develops and administers HUB rules and statutes to ensure full and equal access to state procurement opportunities for minority and woman-owned business, provides certification for HUB firms,

provides outreach and training to HUB firms regarding the state's HUB Program and its initiatives, assists state agencies and institutions of higher education with training, planning, and implementing their HUB outreach and training initiatives, and compiles the HUB Annual Report, which states HUB expenditures and contracts awarded .

<http://www.doa.state.nc.us/hub/default.aspx>

### **Section 12 N.C. Administrative Code Title 1 Chapter 5 Purchase & Contract**

The program administered by the Division of Purchase & Contract shall be based on sound competitive purchasing procedures, sound management of personal property, and the economical disposal of State property; and shall include the following where public funds are involved:

- (1) acquisition of equipment, materials, and supplies, for all agencies;
- (2) acquisition of all printing, rentals, leases and services for all agencies, except for community colleges and local school administrative units;
- (3) making purchasing services available to non-state agencies;
- (4) establishment and enforcement of purchase specifications;
- (5) inspection and testing of products;
- (6) review of agency purchasing and warehousing practices to ensure compliance with operating rules and procedures established by the SPO.

<http://www.pandc.nc.gov/admcode.htm>

### **Section 13 Administrative Code Title 9 Chapter 6 (SITP)**

#### **Forms, Terms and Conditions**

Statewide Information Technology Procurement (SITP) shall prescribe forms, terms and conditions and advertisement requirements for acquiring goods and services related to information technology for agencies. The forms, terms and conditions, and advertisement requirements shall be established taking into consideration market volatility, trends and conditions, legal requirements, and any other factors determined to be in the state's best interest. These shall be made available to all agencies via the SITP website.

## **Section 14 Executive Order 24**

### **REGARDING GIFTS TO STATE EMPLOYEES**

Individuals in State government who do the work of the public must continuously ensure that their actions reflect the ethical standards that are essential to maintaining the public's trust; and this Executive Order shall be effective immediately and shall remain in effect until rescinded . This Executive Order shall supplement, but shall not supersede, existing agency policies regarding the acceptance of gifts and favors by agency employees.

#### **14.1 Gifts and favors regulated**

- (a) It shall be unlawful for any contractor, subcontractor, or supplier who:
- (1) Has a contract with a governmental agency; or
  - (2) Has performed under such a contract within the past year; or
  - (3) Anticipates bidding on such a contract in the future to make gifts or to give favors to any officer or employee of a governmental agency who is charged with the duty of:
    - (i) Preparing plans, specifications, or estimates for public contract; or
    - (ii) Awarding or administering public contracts; or
    - (iii) Inspecting or supervising construction. It shall also be unlawful for any officer or employee of a governmental agency who is charged with the duty of:
      - Preparing plans, specifications, or estimates for public contracts; or
      - Awarding or administering public contracts; or
      - Inspecting or supervising construction willfully to receive or accept any such gift or favor.
- (b) A violation of subsection (a) shall be a Class 1 misdemeanor.
- (c) Gifts or favors made unlawful by this section shall not be allowed as a deduction for North Carolina tax purposes by any contractor, subcontractor or supplier or officers or employees thereof.
- (d) This section is not intended to prevent a gift that a public servant would be permitted to accept under G.S. 138A 32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets . This section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended

to prevent governmental employees who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting. This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donor to the agency head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

[Link to PDF regarding gifts](#)

## **Section 15 Executive Order 50**

### **Enhanced Purchasing Opportunities for North Carolina Businesses**

A price matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. A “resident bidder” as a “bidder” that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State.

This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder’s price is within five percent (5%) or \$10,000, whichever is less, of the nonresident bidder’s price. If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and it will have two (2) business days to accept or decline the award based on the lowest responsible non-resident bidder’s price.

Executive Order 50 applies to procurements from the Governor’s Office, Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor), Universities and Community Colleges and all procurements and E-Procurements handled by the Division of Purchase and Contract. All other State agencies are encouraged to implement the requirements of the Executive Order 50 and vendors should contact these State agencies to determine whether they have adopted and implemented Executive Order 50.

Note: Most E-Quotes are used for small purchases of goods under \$10,000. Therefore, the \$10,000 limitation in Executive Order 50 will not apply and the resident bidder’s quote will have to be within five percent (5%) of the nonresident bidder’s E-Quote, which in most cases, will not be greater than \$500. [Link to PDF about Executive Order 50.](#)

## **Section 16 Executive Order 60**

Contracts Shall be Awarded in the Best Interest of the State.

The Secretary of Administration and the State Chief Information Officer are responsible for oversight of purchasing of, respectively, goods and services and information technology-specific goods and services for the State. The Secretary of Administration is required by law to award contracts based on competitive bidding which includes evaluation of price and may include other factors such as quality, vendor performance, and any other factors deemed to be in the best interest of the State.

The State Chief Information Officer is required by law to award information technology contracts based on the Best Value procurement law which requires the best trade-off between price and vendor performance, considering multiple factors such as quality, total cost of ownership, technical merit, vendor's past performance, timeliness, and compliance with industry standards, information technology security, and any other factors deemed to be in the best interest of the State.

The Secretary of Administration and the State Chief Information Officer (SCIO) shall adopt policies and procedures consistent with their oversight authority to address the use of state contracts that will be performed totally or partially offshore, in consideration of the purpose of this Order, the requirements of North Carolina laws and regulations regarding contracting and procurement and the best interests of the citizens of the State, as well as federal and international laws. This Order is effective immediately and shall remain in effect until rescinded. <http://www.pandc.nc.gov/Documents/ExecutiveOrder60.pdf>

## **Section 17 Umstead Act**

"Sale of Merchandise or Services by Governmental Units Legislation" is the legislation governing the authority of State agencies and institutions to engage in business activities that are considered in competition with private enterprises.

The Act specifically prohibits North Carolina government agencies, including universities, from directly or indirectly selling goods in competition with N.C. citizens;

- (a) rendering services to the public that are ordinarily provided by private businesses;
- (b) leasing space in a state owned or operated building for purposes of selling goods or rendering services in competition with private business;
- (c) contracting with anyone to sell goods or render services in competition with private business. However, numerous exceptions to the statute allow state agencies to conduct limited commercial activities.

[Link to information on Umstead Act](#)

## **Section 18 Department of Public Safety (Correction Enterprises) GS 148-134**

North Carolina General Statute 148-134 declares that State agencies will give preference to Correction Enterprises products. The statute also exempts Correction Enterprises from the competitive bidding process.

### **18.1 Quality & Price Policy**

Correction Enterprises is legally required by these provisions “to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality . . . by reference to competitive bidding as required by law.”

“All departments, institutions, and agencies of this State which are supported in whole or in part by the State shall give preference to Correction Enterprises products in purchasing articles and commodities which these departments, institutions, and agencies require and which are manufactured or produced within the State prison system and offered for sale to them by the Correction Enterprises, and no article or commodity available from the Correction Enterprises shall be purchased by any such State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration, or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required . The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials and equipment required by the state government of any of its departments, institutions or agencies under competitive bidding shall not apply to articles or commodities available from the Correction Enterprises .”

**[www.correctionenterprises.com/customer-service/qualify](http://www.correctionenterprises.com/customer-service/qualify)**

## **Section 19 Ethics/Integrity/Responsibility**

### **19.1 Ethics**

Ethics and ethical practices are a major concern in the realm of public purchasing. While laws and rules mesh to provide a mechanism for public purchasing, only people can make it work. In purchasing, as in all fields, there are values of pride and worth, there are standards and ideals, and there are specifics of conduct and performance. Impediments to the process must be detected early and safeguards provided at all levels. This applies both to purchasing personnel and the vendor community.

It becomes imperative, therefore, that all public purchasing personnel be entirely cognizant of the necessity for ethical behavior. It takes only the slightest hint of impropriety to cast doubt on behavior. Sometimes, it may be even more of a perception than an actual event.

## **19.2 Integrity**

Fairness and impartiality in all phases of the process is an essential ingredient in public purchasing. Dealings with vendors and peers must be open, honest, and objective.

Like all service functions, purchasing's justification is the quality of the service it renders. The process cannot be both effective and self-serving; the two are incompatible. In the case of public purchasing, utmost fairness is required in expending public funds. The result of favoritism extended to either a user or seller is the same. The practice is not permissible. No matter how strongly a user may prefer a particular product over others, equivalent products must be given every reasonable consideration. We must commit and adhere to fair and open competition.

Integrity is a principal stock in trade for the public purchaser. Integrity is manifested by fairness, openness, and impartiality and can be tarnished by even the slightest appearance of impropriety. Once this occurs, it is very difficult to regain.

## **19.3 Liability**

If any agency contracts for the purchase or lease of any commodities, printing or services contrary to statutes, or rules adopted thereunder, such contract shall be void and of no effect. In addition, the Executive Officer of that agency shall be personally liable for the costs thereof.

## **Section 20 General Procurement Policies (Rules)**

### **20.1 Cooperative Procurement/Consortiums**

Where an agency or SITP is a participant in a cooperative project with another governmental entity or with a non-profit organization, goods and services may be purchased through a cooperative agreement if the interest of the State would be better served by one of the following acquisition methods, such as the UPS agreement, FedEx, Grainger etc. the SPO/SCIO or his designee may authorize that acquisition method to be used:

- (1) by making or authorizing acquisition on behalf of such governmental activity or non-profit organization; or
- (2) by authorizing acquisition on the state's behalf under the provisions of another state or another governmental entity, provided due consideration is given by the SPO/SCIO or his designee to the differences in purchasing rules, regulations, and procedures of the contracting entity.

## **20.3 Multiple Awards**

### **PARTIAL AND MULTIPLE AWARDS**

Partial, progressive or multiple awards may be made by reason of insufficient funds, legislative mandates, where it is advantageous to award separately by items or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service(s) or geographical areas .

Notwithstanding the necessity for awards to more than one supplier in the case of some indefinite quantity contracts, such awards shall be limited to the number of suppliers deemed necessary to reasonably satisfy the intended requirements. Extreme care shall be exercised to protect the character and principles of competition. Quantities shall not be divided among companies on definite quantity requirements unless and except as provided in the procurement document.

## **20.4 Taxes**

The State is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by agencies, as applicable. Applicable State or local sales taxes shall be invoiced as a separate item.

The Secretary of Administration is barred from entering into contracts with vendors if the vendor or its affiliates collect use tax on sales of tangible personal property to purchasers in North Carolina.

OTHER: Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.

## **20.5 Terms and Conditions**

See P&C and SITP solicitation documents for State Terms and Conditions.

[Link to forms available from the Division of Purchase and Contract](#)

[Link to subchapter 06A- Information Technology Procurement](#)



## Section 21 Glossary

### Acronyms:

**AG**- Attorney General

**BAFO**- Best and Final Offer

**BPA**- Blanket Purchase Agreement

**CIO**- Chief Information Officer

**DOA**- Department of Administration

**EO**- Equal Opportunity

**FOB**- Free on Board

**G.S.** - General Statute

**GSA**- General Services Administration

**HUB**- Historically Underutilized Business

**IFB**- Invitation for Bids

**IPS**- Interactive Purchasing System

**ITS**- Information Technology Services

**NCAC**- North Carolina Administrative Code

**NIGP**- National Institute of Government Purchasing

**OMB**- Office Management and Budget

**P&C**- Division of Purchase and Contract

**PPM**- Project Portfolio Management

**QPL**- Qualified Product List

**RFI**- Request for Information

**RFP**- Request for Proposals

**RFQ**- Request for Quotes

**SCIO**- State Chief Information Officer

**SITP** - Office of Statewide IT Procurement

**SPO**- State Purchasing Officer

**SWUC**- Statewide Uniform Certification

**T & M**- Time and Materials

## **DEFINITIONS:**

**ADDENDUM:** Form used to make changes or corrections to a bid solicitation or answer vendor questions submitted prior to the closing date of the bid solicitation.

**AGENCY:** All departments, institutions, boards, commissions, universities, or other units of the State (including the Division of Purchase & Contract), and community colleges and local school administrative units, unless specifically exempted herein by reference.

**AGENCY SPECIFIC TERM CONTRACT:** A term contract for use by a specific agency. Depending on the dollar value of the contract, it may be handled by P&C or the agency.

**BEST AND FINAL OFFER (BAFO):** BAFO is a formal document that is used to finalize negotiations with a vendor. Negotiations can be used in single source situations or with the best value trade-off method of procurement.

**BEST VALUE PROCUREMENT:** The terminology used in G.S. 143-135 .9 to identify the method required for purchasing information technology commodities and services.

**COMMODITY:** Any equipment, materials, or supplies, also referred to in this manual as goods and items. It does not include services or printing.

**COMPETITION:** The fair and open solicitation of offers from more than one source; the receipt of offers from more than one source. Competition must be reasonable and adequate for the amount of the expenditure and the specific requirement.

**CONSULTANT SERVICE:** Work or task performed by State employees or independent contractors possessing specialized knowledge, experience, expertise and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulating or implementing improvements in programs or services . This includes, but is not limited to, the organization, planning, directing, control, evaluation, and operation of a program, agency, or department.

**CONTRACTUAL SERVICE:** When an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a State agency for compensation from agency funds. The services may include (by way of illustration, not limitation) services such as, maintenance of buildings or equipment, auditing, film production, employee training and food service, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to Consultant Contracts shall be applicable) .

**GENERAL DELEGATION:** The authority granted by the SPO for an agency to handle purchases made under a certain dollar amount, in accordance with the guidelines in this manual.

**SPECIAL DELEGATION:** The authority granted by the SPO for an agency to handle a specific or special purchase, where it would serve no practical purpose for the purchase to be handled by P&C.

**EMERGENCY:** A situation which endanger lives, property, or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services (also see Pressing Need) .

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB):** Any one of the following minority-owned businesses: Black, Hispanic, Asian American, American Indian, Female, Disabled, and Disadvantaged (See NCGS 143-128.4).

**INFORMATION TECHNOLOGY (IT):** Electronic data processing goods and services and telecommunications goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes.

**INSTALLMENT PURCHASE:** A contract in which the agency's established periodic payments are applied to fulfill the payment obligations for ownership of the commodity. Used when ownership of commodity at time of possession is intended.

**INVITATION FOR BIDS (IFB):** A formal solicitation document, used to seek competition for easily defined goods and simple services. This document or the RFP is required to be used for competitive procurements over \$10,000.

**LEASE:** A contract conveying from one to another the use of a commodity for a designated period of time in return for established periodic payments. This does not contain an option, or an obligation, to purchase.

**LEASE-PURCHASE:** A contract conveying from one to another use of a commodity for a designated period of time in return for established periodic payments, with an option or obligation to purchase the commodity. Used when outright ownership is uncertain or when it is the intent to delay ownership.

**NEGOTIATION:** The act of making a purchase when all offers have been rejected, or when there is justification for waiving the competitive process, or when an emergency or pressing need arises.

**OFFER:** This term may refer to a bid, proposal or offer submitted in response to an Invitation for Bids, Request for Proposals, Negotiation, or Request for Quotes.

**OFFEROR:** Company, firm, corporation, partnership, individual, etc. submitting a response to a solicitation document or in response to a negotiation.

**OPEN MARKET CONTRACT:** A contract for the purchase of a commodity or contractual service not covered by a term contract, usually for a definite quantity on a single order.

**PERSONAL SERVICE:** Services provided by a professional individual (person) on a temporary or occasional basis, including (by way of illustration, not limitation) those provided by a doctor, dentist, scientist, or performer of the fine arts and similar professions; the exemption applies only if the individual is using his/her professional skills to perform a professional task; a personal service may also be a consultant service, in which case consultant contracting procedures shall be followed.

**PRESSING NEED:** A need arising from unforeseen causes including, but not limited to, delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work, and which can be rectified only by immediate on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services (also see Emergency) .

**PURCHASE:** The solicitation of, and acceptance of, an offer to (1) provide a service, or (2) lease or rent a commodity, or (3) sell a commodity outright, or (4) sell a commodity through a lease purchase or installment purchase contract.

**QUALIFIED PRODUCT LIST (QPL):** A type of specification which may be adopted as a standard by the Division of Purchase & Contract. The essential characteristic of this procedure is the examination and prequalification of brands and models of products on the basis of samples and tests.

**RENTAL:** A contract for the right to use a commodity or product for a period of time, usually with payments made at intervals over the period of use, and normally providing for short notice of cancellation.

**REQUEST FOR INFORMATION (RFI):** The RFI is an informal document used to request information from vendors about products or services when an agency does not have enough information readily available to write an adequate solicitation document. The RFI should provide as much information as possible to define the type of information that is being sought. While information gathered from vendors' responses to the RFI may be used to enhance the agency's future procurement, the RFI should state that it is not a request for offer and that no award will result. Since the RFI is not a solicitation for procurement, the State's terms and conditions should not be included in the document.

**REQUEST FOR PROPOSALS (RFP):** A formal solicitation document typically used for seeking competition and obtaining offers for more complex services or a combination of goods and services used for competitive procurements over \$10,000.

**REQUEST FOR QUOTES (RFQ):** A solicitation document normally used for non-advertised competitive procurements (may include e-Quote).

**RESPONSIBLE OFFEROR:** An offeror who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability to assure good-faith performance.

**RESPONSIVE OFFEROR:** An offeror who has submitted an offer which conforms in all material respects to the solicitation document.

**SERVICE CONTRACT:** Any agreement in which an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a state agency for compensation involving an expenditure of public funds. The services may include (by way of illustration, not limitation) services such as maintenance of buildings or equipment, auditing, film production, employee training and food services, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to consultants shall be applicable) .

**SMALL PURCHASE:** The purchase of a good or service for \$5,000 or less.

**SINGLE SOURCE:** When an item or service is available from only one source of supply.

**SOLE SOURCE:** A procurement method utilized when procuring goods or services where one or more of the “waiver of competition” defined under 01 NCAC 05B .1401 and 09 NCAC 06B .0901 policies are met. This method requires justification documentation for the file.

**SOLICITATION DOCUMENT:** A written Request for Quotes, Request for Proposals, Invitation for Bids, or a Request for Information.

**STATEWIDE TERM CONTRACT:** A contract handled by Purchase and Contract, or Statewide IT Procurement Office for all agencies, unless exempted by statute, rule, or special term and condition specific to that contract.

**SUB-RECIPIENT:** A non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**TERM CONTRACT:** A binding agreement between purchaser and seller to buy and sell certain commodities, printing, or services at certain prices and under stipulated terms and conditions. A contract generally intended to cover all normal requirements for a commodity or contractual service for a specified period of time based on estimated quantities only. Sometimes referred to as a “requirements contract” or an “indefinite quantity contract”.

**TERM CONTRACT – AGENCY SPECIFIC:** Agencies may handle agency specific term contracts for use by their agency if the expenditure over the term of the contract is under their benchmark or delegation, and the commodity, printing, or service is not covered by a statewide term contract.

**VENDOR:** A dealer, distributor, merchant or other seller providing goods or services that is required for the conduct by State agencies or programs. These goods or services may be for an organization’s own use or for the use of beneficiaries of State agencies or programs.